TITLE 20—EDUCATION

Chap. Sec.
24. Grants for Educational Materials, Facilities and Services, and Strengthening of Educational Agencies [Omitted or Transferred].. 821
25A. Overseas Defense Dependents' Education [New]................................ 921
46. Career Education Incentive [New] 2601
47. Strengthening and Improvement of Elementary and Secondary Schools [New].. 2701
48. Department of Education [New]......... 3401

CHAPTER 2—TEACHING OF AGRICULTURAL, TRADE, HOME ECONOMICS, AND INDUSTRIAL SUBJECTS

§ 11. Annual appropriations

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Appropriations Under Vocational Education Act of 1963

Pub. L. 90-576, title I, Oct. 16, 1968, 82 Stat. 1091, as amended by Pub. L. 91-230, title VII, § 709, Apr. 13, 1970, 84 Stat. 189; Pub. L. 94-482, title II, § 203(c)(1), as added Pub. L. 95-40, § 1(29), June 3, 1977, 91 Stat. 207, provided that: "Funds appropriated by the first section of the Smith-Hughes Act (that is the Act approved February 23, 1917, 39 Stat. 929, as amended (20 U.S.C. 11-15, 16-28)), shall be considered as funds appropriated pursuant to section 102(a) of the Vocational Education Act of 1963 (as such Act will be in effect on October 1, 1977) [section 2302(a) of this title]."

Pub. L. 94-482, title II, § 203(c)(2), as added by Pub. L. 95-40, § 1(29), June 3, 1977, 91 Stat. 207, provided that: "The amendments made by this section [amending this note and sections 817, 952, and 953 of Title 29, Labor] shall be effective on and after October 1, 1977."

§ 15. Studies, investigations, and reports; salaries and expenses

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 16. Acceptance of benefits of appropriations by States; creation of State boards

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 18 to 22

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 24 to 26

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 28. Reports to Congress by Department of Health, Education, and Welfare

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 3—SMITHSONIAN INSTITUTION, NATIONAL MUSEUMS AND ART GALLERIES

SUBCHAPTER XI—WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

Sec.
80g-1. Hubert H. Humphrey Fellowship in Social and Political Thought [New].
  (a) Establishment in Center.
  (b) Selection of Humphrey Fellow; term; compensation.
  (c) Functions of Humphrey Fellow; publication and dissemination by Board of Memorial Lectures.
  (d) Hubert H. Humphrey Fellowship Trust Fund; establishment, composition, investments, etc.
  (e) Payments to Board from investments for implementation of Fellowship purposes.
  (f) Authorization of appropriations.

SUBCHAPTER XII—MUSEUM OF AFRICAN ART [NEW]

80k. Donation and transfer of lands and improvements, works of art, and other assets and property of Museum of African Art to Smithsonian Institution.

Sec.
80*l*. Establishment of Museum of African Art; functions.
80m. Powers of Board.
80n. Commission for the Museum of African Art.
  (a) Establishment; duties.
  (b) Membership.
  (c) Terms of office.
  (d) Quorum; vacancies.
  (e) Travel, subsistence, and other expenses.
  (f) Selection of officers; bylaws.
80*o*. Director, officers, and employees; appointment, compensation, and duties.
80p. Federal funds for Museum; authorization of appropriations.

SUBCHAPTER I—CHARTER PROVISIONS

§ 50. Reception and arrangement of specimens and objects of art

Smithsonian Institution; Development of Property Adjacent to Original Building

Pub. L. 96-36, July 20, 1979, 93 Stat. 94, provided:

"That the Board of Regents of the Smithsonian Institution is authorized to plan for the development of the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street, Southwest, in the city of Washington.

"Sec. 2. Effective October 1, 1979, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $500,000 to carry out the purposes of this Act.

"Sec. 3. Any portion of the sums appropriated to carry out the purposes of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes."

Smithsonian Institution Plans for and Construction of Museum Support Facilities; Approval of Plans and Specifications; Situs; Transfer of Land; Appropriations; Contracts by General Services Administration

Pub. L. 94-98, Sept. 19, 1975, 89 Stat. 480, as amended by Pub. L. 95-569, Nov. 2, 1978, 92 Stat. 2444, provided:

"The Regents of the Smithsonian Institution are authorized to prepare plans for, and to construct, museum support facilities to be used for (1) the care, curation, conservation, deposit, preparation, and study of the national collections of scientific, historic, and artistic objects, specimens, and artifacts; (2) the related documentation of such collections of the Smithsonian Institution; and (3) the training of museum conservators. No appropriation shall be made to construct the facilities authorized by this Act until the Committee on Public Works and Transportation of the House of Representatives and the Committee on Rules and Administration of the Senate, by resolution approve the final plans and specifications of such facilities.

"Sec. 2. The museum support facilities referred to in section 1 shall be located on federally owned land within the metropolitan area of Washington, District of Columbia. Any Federal agency is authorized to transfer land under its jurisdiction to the Smithsonian Institution for such purposes without reimbursement.

"Sec. 3. There is authorized to be appropriated to the Smithsonian Institution $21,500,000 to carry out the purposes of this Act. Any portion of the sums appropriated for such purposes may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes."

[Amendment of section 3 of this Act effective Oct. 1, 1979.]

SUBCHAPTER II—NATIONAL GALLERY OF ART

§ 72. Board of Trustees; establishment

Delegation of Functions by Secretary of State to Director of the International Communication Agency

Pub. L. 95-426, title II, § 205, Oct. 7, 1978, 92 Stat. 975, provided that: "The Secretary of State may delegate to the Director of the International Communication Agency, with the consent of the Director, the functions vested in the Secretary by section 2(a) of the joint resolution entitled 'Joint Resolution providing for the construction and maintenance of a National Gallery of Art', approved March 24, 1937 (20 U.S.C. 72(a))."

SUBCHAPTER V—JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

§ 76h. Bureau, board of trustees, and advisory committee

(a) Establishment of bureau; direction by board of trustees; composition of board

There is established in the Smithsonian Institution a bureau, which shall be directed by a board to be known as the Trustees of the John F. Kennedy Center for the Performing Arts (hereafter in this subchapter, referred to as the "Board"), whose duty it shall be to maintain and administer the John F. Kennedy Center for the Performing Arts and site thereof and to execute such other functions as are vested in the Board by this subchapter. The Board shall be composed as follows: The Secretary of Health, Education, and Welfare, the Librarian of Congress, the Director of the International Communication Agency, the Chairman of the Commission of Fine Arts, the Mayor of the District of Columbia, the Chairman of the District of Columbia Recreation Board, the Director of the National Park Service, the Commissioner of the United States Office of Education, the Secretary of the Smithsonian Institution, three Members of the Senate appointed by the President of the Senate, and three Members of the House of Representatives appointed by the Speaker of the House of Representatives ex officio; and thirty general trustees who shall be citizens of the United States, to be chosen as hereinafter provided.

[*See main edition for text of* (*b*), (*c*)]

(As amended 1977 Reorg. Plan No. 2, § 7(b), 42 F.R. 62461, 91 Stat. 1637.)

Change of Name

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

"Director of the International Communication Agency" was substituted for "Assistant Secretary of State for Public Affairs" in subsec. (a) pursuant to Reorg. Plan No. 2 of 1977, § 7(b), 42 F.R. 62461, 91

Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the Assistant Secretary of State for Public Affairs under subsec. (a) of this section to the Director of the International Communication Agency.

§ 76*l*. Official seal, Board vacancies and quorum, trustee powers and obligations, reports, support services, and review and audit

[*See main edition for text of* (*a*) *to* (*d*)]

(e) Maintenance, security, information, and other services; authorization of appropriations

The Secretary of the Interior, acting through the National Park Service, shall provide maintenance, security, information, interpretation, janitorial and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. There is authorized to be appropriated to carry out this subsection not to exceed $2,800,000 for the fiscal year ending June 30, 1976, $741,000 for the transition period ending September 30, 1976, $3,100,000 for the fiscal year ending September 30, 1977, and $4,000,000 for the fiscal year ending September 30, 1978. There is authorized to be appropriated to carry out this subsection not to exceed $4,200,000 for the fiscal year ending September 30, 1979.

[*See main edition for text of* (*f*)]

(As amended Pub. L. 95-50, § 2, June 20, 1977, 91 Stat. 232; Pub. L. 95-305, June 29, 1978, 92 Stat. 348.)

Amendments

1978—Subsec. (e). Pub. L. 95-305 added provisions authorizing appropriations for the fiscal year ending Sept. 30, 1979.

1977—Subsec. (e). Pub. L. 95-50 authorized an appropriation of $4,000,000 for the fiscal year ending Sept. 30, 1978, and struck out provisions that had authorized appropriations of $4,000,000 for the fiscal year ending Sept. 30, 1978, and not to exceed $4,300,000 for the fiscal year ending Sept. 30, 1979.

§ 76n. Authorization of appropriations; matching amounts and limitation; maintenance and operation of nonperforming arts functions; repair, renovation, and reconstruction

(a) There is authorized to be appropriated to the Board for use in accordance with this subchapter, amounts which in the aggregate will equal gifts, bequests, and devises of money, securities, and other property, held by the Board under this subchapter, except that not to exceed $23,000,000 shall be appropriated pursuant to this subsection.

[*See main edition for text of* (*b*)]

(c) There are authorized to be appropriated to the Secretary of the Interior, acting through the National Park Service, not to exceed $4,700,000 for repair, renovation, and reconstruction of the John F. Kennedy Center for the Performing Arts necessary to correct water leaks in the roof, the terraces, the kitchen, and the East Plaza Drive and to correct any damage which has resulted from those leaks. No contract shall be entered into for any property or services necessary to carry out this subsection unless such contract has been approved by the Board, and no final payment for such property or services shall be made under any such contract unless such payment has been approved by the Board. No part of the funds authorized by this subsection shall be expended under any cost-plus-a-percentage-of-cost, cost-plus-a-fixed-fee, or similar incentive-type contract. Funds authorized by this subsection shall be expended under a contract only after advertising and competitive bidding for the property or services to be provided by such contract.

(As amended Pub. L. 95-50, § 1, June 20, 1977, 91 Stat. 232.)

Amendments

1977—Subsec. (a). Pub. L. 95-50, § 1(b), substituted "appropriated pursuant to this subsection" for "appropriated pursuant to this section".

Subsec. (c). Pub. L. 95-50, § 1(a), added subsec. (c).

SUBCHAPTER IX—CANAL ZONE BIOLOGICAL AREA

§ 79. Barro Colorado Island in Gatun Lake to be set aside

References in Text

The Canal Zone, referred to in text, is deemed to refer to the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

§ 79e. Authorization of appropriations

There are authorized to be appropriated annually, from money in the Treasury of the United States not otherwise appropriated, such sums, not to exceed $750,000, as are necessary for the administration of this subchapter and for the maintenance of laboratory or other facilities provided for carrying out the purposes of this subchapter.

(As amended Oct. 19, 1979, Pub. L. 96-89, § 1, 93 Stat. 697.)

Amendments

1979—Pub. L. 96-89 substituted "$750,000" for "$350,000".

Effective Date of 1979 Amendment

Section 2 of Pub. L. 96-89 provided that: "The provision in section 1 of this Act [amending this section] shall take effect on October 1, 1979."

SUBCHAPTER XI—WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

§ 80f. Woodrow Wilson International Center for Scholars; Board of Trustees of the Center

[*See main edition for text of* (*a*)]

(b) Composition of Board

The Board of Trustees shall be composed of sixteen members as follows:

(1) the Secretary of State;

(2) the Director of the International Communication Agency;

(3) the Secretary of Health, Education, and Welfare;

(4) the Chairman of the National Endowment for the Humanities;

(5) the Secretary of the Smithsonian Institution;

(6) the Librarian of Congress;

(7) the Archivist of the United States;

(8) one appointed by the President from time to time from within the Federal Government; and

(9) eight appointed by the President from private life.

(c) Appointment of alternate members by members of Board

Each member of the Board of Trustees specified in paragraphs (1) through (8) of subsection (b) of this section may designate another official to serve on the Board of Trustees in his stead.

(d) Terms of office; vacancies; reappointment

Each member of the Board of Trustees appointed under paragraph (9) of subsection (b) of this section shall serve for a term of six years from the expiration of his predecessor's term; except that (1) any trustee appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the trustees first taking office shall begin on October 24, 1968, and shall expire as designated at the time of appointment, two at the end of two years, three at the end of four years, and three at the end of six years. No trustee of the Board chosen from private life shall be eligible to serve in excess of two consecutive terms, except that a trustee whose term has expired may serve until his successor has qualified.

[*See main edition for text of* (*e*)]

(Pub. L. 95-426, title II, § 206, Oct. 7, 1978, 92 Stat. 975.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-426, § 206(a)(1), substituted, in text preceding par. (1), "sixteen" for "fifteen".

Subsec. (b)(2) to (9). Pub. L. 95-426, § 206(a)(2), (3), designated pars. (2) to (8) as (3) to (9), respectively, and added a new par. (2), "the Director of the International Communication Agency".

Subsec. (c). Pub. L. 95-426, § 206(b)(1), substituted "(8)" for "(7)".

Subsec. (d). Pub. L. 95-426, § 206(b)(2), substituted "(9)" for "(8)".

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of this title.

§ 80g. Powers and duties of Board; relocation assistance and programs

(a) In administering the Center, the Board shall have all necessary and proper powers which shall include but not be limited to the power to—

[*See main edition for text of* (*1*)]

(2) solicit, accept, and dispose of gifts, bequests, and devises of money, securities, and other property of whatsoever character for the benefit of the Center; any such money, securities, or other property shall, upon receipt, be deposited with the Smithsonian Institution, and unless otherwise restricted by the terms of the gift, expenditures shall be in the discretion of the Board for the purposes of the Center;

[*See main edition for text of* (*3*) *to* (*7*); (*b*)]

(As amended Pub. L. 95-286, § 2, May 26, 1978, 92 Stat. 279.)

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95-286 substituted "devises" for "devices".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80g-1 of this title.

§ 80g-1. Hubert H. Humphrey Fellowship in Social and Political Thought

(a) Establishment in Center

There is hereby established in the Center a Hubert H. Humphrey Fellowship in Social and Political Thought.

(b) Selection of Humphrey Fellow; term; compensation

Each year the Board shall select a distinguished scholar, statesman, or cultural figure, from the United States or abroad, to serve at the Center for a period of up to one year as the Hubert H. Humphrey Fellow in Social and Political Thought (hereinafter in this section referred to as the "Humphrey Fellow"). Each Humphrey Fellow shall receive compensation in an amount, determined by the Board, not to exceed the annual income of the trust fund established under subsection (d) of this section.

(c) Functions of Humphrey Fellow; publication and dissemination by Board of Memorial Lectures

Each Humphrey Fellow shall—

(1) deliver a Hubert H. Humphrey Memorial Lecture; and

(2) carry out such projects and work as are consistent with the Humphrey Fellowship.

The Board shall provide for the publication and dissemination of the Hubert H. Humphrey Memorial Lectures.

(d) Hubert H. Humphrey Fellowship Trust Fund; establishment, composition, investments, etc.

(1) There is hereby established in the Treasury of the United States a trust fund to be known as the Hubert H. Humphrey Fellowship Trust Fund (hereinafter in this section referred to as the "fund"). The Secretary of the Treasury shall deposit in the fund such sums as may be appropriated to the fund under subsection (f) of this section and shall receive into the Treasury and deposit into the fund such sums as may be received as contributions to the fund.

(2) The Secretary of the Treasury shall invest amounts in the fund in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates; and the interest on such investments shall be credited to and form a part of the fund.

(3) Notwithstanding section 80g(a)(2) of this title any gift, bequest, or devise of money, securities or other property for the benefit of the Hubert H. Humphrey Fellowship in Social and Political Thought received by the Board shall, upon receipt, be deposited into the fund as provided by paragraph (1).

(e) Payments to Board from investments for implementation of Fellowship purposes

The Secretary of the Treasury shall pay to the Board from amounts received as interest on investments under subsection (d)(2) of this section such sums as the Board determines are necessary and appropriate for the purposes of the Humphrey Fellowship.

(f) Authorization of appropriations

There is authorized to be appropriated to the fund for the fiscal year beginning October 1, 1978, $1,000,000.

(Pub. L. 90-637, § 5, as added Pub. L. 95-286, § 1(2), May 26, 1978, 92 Stat. 278.)

§§ 80h to 80j

CODIFICATION

Sections 5 to 7 of Pub. L. 90-637, cited in the credits to sections 80h to 80j, were redesignated as 6 to 8, respectively, by Pub. L. 95-286, § 1(1), May 26, 1978, 92 Stat. 278.

SUBCHAPTER XII—MUSEUM OF AFRICAN ART [NEW]

§ 80k. Donation and transfer of lands and improvements, works of art, and other assets and property of Museum of African Art to Smithsonian Institution

The Board of Regents of the Smithsonian Institution (hereinafter in this subchapter referred to as the "Board") is authorized to accept a deed or other instrument donating and transferring to the Smithsonian Institution, the land and improvements thereto, collections of works of art, and all other assets and property of the Museum of African Art.

(Pub. L. 95-414, § 1, Oct. 5, 1978, 92 Stat. 911.)

EFFECTIVE DATE

Section 7 of Pub. L. 95-414 provided that: "Except for the provisions in sections 1 and 6(b) [this section and section 80p(b) of this title], the provisions of this Act [this subchapter] shall take effect on the date of transfer of a deed or other instrument under the provisions of section 1 [this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 80m, 80o, 80p of this title.

§ 80*l*. Establishment of Museum of African Art; functions

There is established in the Smithsonian Institution a bureau which shall be known as the "Museum of African Art" (hereinafter in this subchapter referred to as the "Museum"). The functions of such bureau shall be those authorized by section 80m(a) of this title.

(Pub. L. 95-414, § 2, Oct. 5, 1978, 92 Stat. 911.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80m of this title.

§ 80m. Powers of Board

(a) For the purpose of carrying out sections 80k and 80*l* of this title, the Board may—

(1) purchase, accept, borrow, or otherwise acquire additional works of art or any other real or personal property for the Museum;

(2) preserve, maintain, restore, display, loan, transfer, store, or otherwise hold any property of whatsoever nature acquired pursuant to section 80k of this title or paragraph (1) of this subsection;

(3) conduct programs of research and education; and

(4) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or otherwise dispose of any property of whatsoever nature acquired pursuant to the provisions of this subchapter: *Provided*, That the proceeds from the sale of any property acquired pursuant to section 80k of this title shall be designated for the benefit of the Museum.

(b) In carrying out the purposes of this subchapter, the Board shall consider the recommendations of the Commission established pursuant to section 80n of this title.

(Pub. L. 95-414, § 3, Oct. 5, 1978, 92 Stat. 911.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 80*l* of this title.

§ 80n. Commission for the Museum of African Art

(a) Establishment; duties

There is established a Commission for the Museum of African Art (hereinafter the "Commission") which shall provide advice and assistance to the Board concerning the operation and development of the Museum, its collections and programs.

(b) Membership

The Commission shall consist of fifteen members to be appointed by the Board. In addition, the Secretary and an Assistant Secretary of the Smithsonian Institution shall serve as ex officio members. The Board shall appoint to the first term on the Commission no less than ten members of the Board of Trustees of the Museum of African Art who are serving on October 5, 1978. Each initial member so appointed shall serve for a three-year term. Thereafter, in appointing members of the Commission the Board shall continue to include representatives of African descendents in the United States, collectors of African Art, and scholars in the fields of African art and culture.

(c) Terms of office

Members of the Commission shall be appointed to serve for a three-year term, except that after the appointment of the first term of the Commission as specified in subsection (b) of this section, the terms of office of members next appointed shall expire, as designated by the Board at the time of appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(d) Quorum; vacancies

A majority of the appointed members of the Commission shall constitute a quorum and any vacancy in the Commission shall not affect its power to function.

(e) Travel, subsistence, and other expenses

Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(f) Selection of officers; bylaws

The Commission shall select officers, from among its members biennially and shall make bylaws to carry out its functions under this subchapter.

(Pub. L. 95-414, § 4, Oct. 5, 1978, 92 Stat. 911.)

Section Referred to in Other Sections

This section is referred to in section 80m of this title.

§ 80o. Director, officers, and employees; appointment, compensation, and duties

The Board may appoint and fix the compensation and duties of the Director and such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum; the Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and all of the employees of the Museum who are serving on the date of the transfer authorized under section 80k of this title shall be offered employment by the Smithsonian under its usual terms of employment and may be appointed without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5.

(Pub. L. 95-414, § 5, Oct. 5, 1978, 92 Stat. 912.)

References in Text

Provisions of title 5 governing appointments in the competitive service, referred to in text, are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 80p. Federal funds for Museum; authorization of appropriations

(a) The faith of the United States is pledged that upon the completion of the acquisition in section 80k of this title, the United States will provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of works of art acquired by the Board, so the Museum shall at all times be properly maintained and works of art contained therein shall be exhibited regularly to the general public free of charge.

(b) There is authorized to be appropriated for the first fiscal year under this subchapter, the sum of $1,000,000 and such amounts as may be necessary for the succeeding fiscal years in order to carry out the provisions of this subchapter.

(Pub. L. 95-414, § 6, Oct. 5, 1978, 92 Stat. 912.)

Effective Date

Section effective, except for the provisions in subsec. (b) of this section, on the date of transfer of a deed or other instrument under the provisions of section 80k of this title, see section 7 of Pub. L. 95-414, set out as an Effective Date note under section 80k of this title.

CHAPTER 5—GOVERNMENT COLLECTIONS AND INSTITUTIONS FOR RESEARCH, AND MATERIAL FOR EDUCATIONAL INSTITUTIONS

§ 91. Literary and scientific collections accessible to investigators and students

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 6—AMERICAN PRINTING HOUSE FOR THE BLIND

Sec.
106. Purchases through the General Services Administration [New].

§§ 101, 102

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 104. Annual reports by trustees

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 106. Purchases through the General Services Administration

On and after September 8, 1978, the American Printing House for the Blind is authorized to make purchases through the General Services Administration.

(Pub. L. 95-355, title I, § 100, Sept. 8, 1978, 92 Stat. 531.)

Codification

Section is from the Second Supplemental Appropriations Act, 1978, and contained additional provisions relating to purchases by Howard University, and Gallaudet College and the National Technical Institute for the Deaf, which are set out as sections 130 and 686 of this title, respectively.

CHAPTER 6A—VENDING FACILITIES FOR BLIND IN FEDERAL BUILDINGS

Chapter Referred to in Other Sections

This chapter is referred to in section 3441 of this title.

§§ 107 to 107b

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 107d to 107e

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 8—HOWARD UNIVERSITY

Sec.
130. Purchases through the General Services Administration [New].

§§ 121 to 125

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 127. Transfer of facilities by University or cessation of operation as teaching hospital facilities; recovery of value by United States

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 130. Purchases through the General Services Administration

On and after September 8, 1978, Howard University is authorized to make purchases through the General Services Administration.

(Pub. L. 95-355, title I, § 100, Sept. 8, 1978, 92 Stat. 531.)

Codification

Section is from the Second Supplemental Appropriations Act, 1978, and contained additional provisions relating to purchases by the American Printing House for the Blind, and Gallaudet College and the National Technical Institute for the Deaf, which are set out as sections 106 and 686 of this title, respectively.

CHAPTER 13—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

SUBCHAPTER III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR EDUCATION OF INDIAN CHILDREN

Sec.
241bb-1. Tribal schools [New].

SUBCHAPTER I—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 243, 244, 1228 of this title.

§ 236. Congressional declaration of policy

Codification

Section credit set out in the main edition of this Code should read: Sept. 30, 1950, ch. 1124, title I, § 1, formerly § 1, renumbered and amended Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 27.

Commission on Review of Federal Impact Aid Program; Appointment; Operation and Function; Report and Recommendations Not Later Than December 1, 1980

Pub. L. 95-561, title X, § 1015, Nov. 1, 1978, 92 Stat. 2311, as amended by Pub. L. 96-46, § 2(a)(5), Aug. 6, 1979, 93 Stat. 340, provided that:

"(a) The President shall appoint a Commission on the Review of the Federal Impact Aid Program consisting of ten members.

"(b) The Commission shall review and evaluate the administration and operation of the impact aid program under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [this chapter] including—

"(1) the equity of the present funding structure under Public Law 874,

"(2) the relative benefit of the assistance for impact aid under Public Law 874 in view of the increasing costs of the program and the limitation on the availability of funds, and

"(3) the ways in which districts of local educational agencies which are Federally impacted can best be assisted in meeting their educational needs.

"(c)(1) The Secretary of Health, Education, and Welfare shall assure that the Department of Health, Education, and Welfare provide full support and cooperation to the Commission appointed under this section.

"(2) The provisions of part D of the General Education Provisions Act [section 1233 et seq. of this title], not inconsistent with the provisions of this section, shall apply to the Commission appointed under this section.

"(3) This Commission shall closely coordinate its activities with activities of the Advisory Panel on Elementary and Secondary Education authorized under section 1203 of this Act [set out as a note under section 1221-1 of this title].

"(d) The Commission shall prepare and submit to the President and to the Congress not later than December 1, 1980, a report on the review and evaluation required by this section, together with such recommendations, including recommendations for legislation relating to the authorization of the program and funding for the program, as the Commission deems appropriate."

§ 237. Federal contributions

(a) Federal acquisition of property within school district as financial burden entitling for contribution

Where the Commissioner, after consultation with any local educational agency and with the appropriate State educational agency, determines for any fiscal year ending prior to October 1, 1983—

[*See main edition for text of* (*1*) *to* (*3*)]

then the local educational agency shall be entitled to receive for such fiscal year such amount as, in the judgment of the Commissioner, is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property. Such amount shall not exceed the amount which, in the judgment of the Commissioner, such agency would have derived in such year, and would have had available for current expenditures, from the property acquired by the United States (such amount to be determined without regard to any improvements or other changes made in or on such property since such acquisition).

[*See main edition for text of* (*b*) *and* (*c*)]

(Sept. 30, 1950, ch. 1124, title I, § 2, formerly § 2, 64 Stat. 1101; Aug. 8, 1953, ch. 402, § 1, 67 Stat. 530; Aug. 12, 1955, ch. 868, § 1, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, § 201, 70 Stat. 970; Aug. 12, 1958, Pub. L. 85-620, title II, § 201, 72 Stat. 559; Oct. 3, 1961, Pub. L. 87-344, title I, § 102(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88-210, title III, § 302, formerly § 32, 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90-576, title I, § 101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88-665, title XI, § 1102(a), 78 Stat. 1109; renumbered and amended Apr. 11, 1965, Pub. L. 89-10, title I, §§ 2, 5, 79 Stat. 27, 36; Jan. 2, 1968, Pub. L. 90-247, title II, § 204(a)-(c), title III, § 301(e), 81 Stat. 808, 813; Apr. 13, 1970, Pub. L. 91-230, title II, § 201(b), 84 Stat. 154; Aug. 21, 1974, Pub. L. 93-380, title III, § 303(a)(1), 88 Stat. 522; Apr. 21, 1976, Pub. L. 94-273, § 3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95-561, title X, § 1001(a), 92 Stat. 2306.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561 substituted "1983" for "1978".

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1032 of title X of Pub. L. 95-561 provided that:

"This title [amending sections 237, 238, 239, 240, 241, 241-1, 244, 633, 635, 640, 645, and 646 of this title, enacting provisions set out as notes under sections 236, 240, and 244 of this title, and amending a provision set out as a note under section 238 of this title] shall be effective with respect to the 1979 fiscal year, and subsequent fiscal years, except that—

"(1) the amendments made by section 1006 [amending section 240 of this title] shall be effective upon enactment of this Act [Nov. 1, 1978], and actions of the Commissioner of Education under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [this chapter], during or with respect to fiscal year 1978, shall be subject to the provisions of such amendments;

"(2) the amendments made by sections 1003, 1007, 1011, and 1012 [amending sections 238, 240, and 244 of this title] shall be effective with respect to fiscal year 1980, and subsequent fiscal years; and

"(3) the provisions of section 1015 [enacting provisions set out as a note under section 236 of this title] shall be effective upon enactment of this Act [Nov. 1, 1978]."

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 238. Payments to local school agencies

[*See main edition for text of* (*a*)]

(b) Children of persons who reside or work on Federal property, who are on active duty in uniform services, or who are refugees

For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to October 1, 1983, the Commissioner shall, in addition to any determination made with respect to such agency under subsection (a) of this section, determine the number of children (other than children with respect to whom a determination is made for such fiscal year under subsection (a) of this section) who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year and who, while in attendance at such schools, either—

(1) resided on Federal property, or

(2) resided with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or in whole or in part in the school district of such agency if the school district is located in more than one county, or (B) if not in such county or district, in whole or in part in the same State as the school district of such agency, or

(3) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37).

For such purpose, with respect to a local educational agency, in the case of any fiscal year ending prior to October 1, 1983, the Commissioner shall also determine the number of children (other than children to whom subsection (a) of this section or the preceding sentence applies) who were in average daily attendance at the schools of such agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the beginning of the fiscal year for which the determination is made, a refugee who meets the requirements of clauses (A) and (B) of section 2601(b)(3) of title 22, except that the Commissioner shall not include in his determination under this sentence for any fiscal year any child with respect to whose education a payment was made under section 2601(b)(4) of title 22.

[*See main edition for text of* (*c*)]

(d) Amount of payments; special education programs, entitlement; criteria; local contribution rate; formula; special determination for territories; "handicapped children", "State", and "average per pupil expenditure" defined

(1) Except as is provided in paragraph (2), the amount to which a local educational agency shall be entitled under this section for any fiscal year shall be—

(A) in the case of any local educational agency with respect to which the number of children determined for such fiscal year under subsection (a) of this section amounts to at least 20 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the sum of the products obtained with respect to such agency under clauses (B)(iii), (B)(iv), and (B)(v); and

[*See main edition for text of* (*B*)]

(2)(A) Repealed. Pub. L. 95-561, title X, § 1004, Nov. 1, 1978, 92 Stat. 2307.

(B) If the Commissioner determines that—

[*See main edition for text of* (*i*) *and* (*ii*)]

(iii) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education were, during such fiscal year, determined under either subsection (a) or subsection (b) of this section, or both; and

(iv) the eligibility of such agency under State law for State aid with respect to free public education of children residing on Federal property, and the amount of such aid, are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State;

the Commissioner shall increase the amount computed under paragraph (1) with respect to such agency for such fiscal year to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts. The Commissioner shall not, under the preceding sentence, increase the amount computed under paragraph (1) with respect to any local educational agency for any fiscal year to an amount which exceeds the product of—

(I) the amount the Commissioner determines to be the cost per pupil of providing a level of education maintained in such comparable school districts during such fiscal year,

multiplied by—

(II) the number of children determined with respect to such agency for such year under either subsection (a) or subsection (b) of this section, or both,

minus the amount of State aid which the Commissioner determines to be available with respect to such children for the fiscal year for which the computation is being made.

[*See main edition for text of* (*C*)]

(D) The amount of the entitlements of any local educational agency under this section for any fiscal year with respect to children who, while in attendance at such agency, resided on Indian lands, as described in clause (A) of section 244(1) of this title, shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 125 per centum.

(3) [*See main edition for text of* (*A*)]

(B) [*See main edition for text of* (*i*) *and* (*ii*)]

(iii) The local contribution rate for any local educational agency in—

(I) Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands, or

(II) any State in which a substantial proportion of the land is in unorganized territory, or

(III) any State in which there is only one local education agency,

shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will best achieve the purposes of this section and which are consistent with the policies and principles provided in this paragraph for determining local contribution rates in States where it is possible to determine generally comparable school districts.

(C) For the purposes of this paragraph—

(i) the term "State" does not include Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands; and

[*See main edition for text of* (*ii*); (*e*) *and* (*f*)]

(g) Spending vote requirement prohibited

Notwithstanding any other provisions of this chapter, no State may require that a vote of the qualified electors of a heavily impacted school district of a local educational agency be held to determine if such school district will spend the amounts to which the local educational agency is entitled under this chapter.

(Sept. 30, 1950, ch. 1124, title I, § 3, formerly § 3, 64 Stat. 1102; Aug. 8, 1953, ch. 402, § 2, 67 Stat. 530; Aug. 12, 1955, ch. 868, § 1, 69 Stat. 713; Aug. 1, 1956, ch. 852, § 10, 70 Stat. 909; Aug. 3, 1956, ch. 915, title II, §§ 202-206, 70 Stat. 970, 971; Aug. 12, 1958, Pub. L. 85-620, title II, § 202, 72 Stat. 559; June 25, 1959, Pub. L. 86-70, § 18(d)(1)-(3), 73 Stat. 144; July 12, 1960, Pub. L. 86-624, § 14(d)(1)-(3), 74 Stat. 414; Oct. 3, 1961, Pub. L. 87-344, title I, § 102(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88-210, title III, § 302, formerly § 32, 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90-576, title I, § 101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88-665, title XI, § 1102(a), 78 Stat. 1109; renumbered and amended Apr. 11, 1965, Pub. L. 89-10, title I, §§ 2, 3(a), 4(d)(2), 5, 79 Stat. 27, 34-36; Nov. 1, 1965, Pub. L. 89-313, § 4(a), 79 Stat. 1161; Nov. 3, 1966, Pub. L. 89-750, title II, § 201, 80 Stat. 1210; Jan.

2, 1968, Pub. L. 90-247, title II, §§ 204(d), 205(a), 206, title III, § 301(e), 81 Stat. 808, 809, 813; Apr. 13, 1970, Pub. L. 91-230, title II, §§ 201(b), 202, 84 Stat. 154, 155; Aug. 21, 1974, Pub. L. 93-380, title III, §§ 304(a)(1), (b)(1), 305(a)(1), 88 Stat. 522, 523; Apr. 21, 1976, Pub. L. 94-273, § 3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95-561, title X, §§ 1001(b), 1002, 1003(a), (b), (d), 1004, 1031(a), title XI, § 1101(a), 92 Stat. 2306, 2307, 2312, 2313.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-561, §§ 1001(b), 1002, substituted "1983" for "1978" in the provisions preceding par. (1) and following par. (3), added ", or in whole or in part in the school district of such agency if the school district is located in more than one county" after "located" in par. (2)(A), and added "or district" after "county" in par. (2)(B).

Subsec. (d)(1)(A). Pub. L. 95-561, § 1003(a), substituted "20 per centum" for "25 per centum".

Subsec. (d)(2)(A). Pub. L. 95-561, § 1004, struck out subpar. (A), which had required districts to absorb a certain percentage of federally-impacted children before receiving any payments.

Subsec. (d)(2)(B). Pub. L. 95-561, § 1003(b), substituted "or subsection (b) of this section" for "or clause (1) of subsection (b) of this section" in cl. (iii), "the Commissioner shall increase the amount computed" for "the Commissioner is authorized, to increase the amount computed" in the provisions following cl. (iv), and "or subsection (b) of this section" for "or clause (1) of subsection (b) of this section" in cl. (II).

Subsec. (d)(2)(D). Pub. L. 95-561, § 1101(a), added subpar. (D).

Subsec. (d)(3)(B)(iii)(I). Pub. L. 95-561, § 1031(a), added "the Northern Mariana Islands," following "American Samoa,".

Subsec. (d)(3)(C)(i). Pub. L. 95-561, § 1031(a), added "the Northern Mariana Islands," following "American Samoa,".

Subsec. (g). Pub. L. 95-561, § 1003(d), added subsec. (g).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment of subsecs. (b), (d)(2)(A), and (d)(3) by sections 1001(b), 1002, 1004, and 1031(a) of Pub. L. 95-561 effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

Amendment of subsec. (d)(1)(A) and (d)(2)(B) by section 1003(a) and (b) of Pub. L. 95-561, and the enactment of subsec. (g) of this section by section 1003(d) of Pub. L. 95-561 effective with respect to fiscal year 1980 and subsequent fiscal years, see section 1032(2) of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

Section 1101(a) of Pub. L. 95-561 provided in part that the enactment of subsec. (d)(2)(D) of this section is effective with respect to fiscal years beginning on or after Nov. 1, 1978.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PAYMENTS TO LOCAL SCHOOL AGENCIES FOR FISCAL YEARS THROUGH 1983; SEPARATION OF FUNDS; REPORT TO CONGRESSIONAL COMMITTEES

Section 305(b)(2), formerly § 305(a)(2), of Pub. L. 93-380, as amended by Pub. L. 94-273, § 48(b), Apr. 21, 1976, 90 Stat. 382, renumbered by Pub. L. 94-482, title V, § 501(a)(3), Oct. 12, 1976, 90 Stat. 2235, and amended Pub. L. 95-561, title X, § 1001 (d), (e), Nov. 1, 1978, 92 Stat. 2306, provided that:

[*See main edition for text of A*]

"(B) In the case of any local educational agency which experiences a decrease in the number of children determined by the Commissioner of Education under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [this section] of 10 per centum or more of such number—

"(i) during the fiscal year ending June 30, 1974, or the fiscal year ending June 30, 1975; or

"(ii) during the period beginning July 1, 1973, and ending June 30, 1975;

as the result of a decrease in, or cessation of, Federal activities affecting military installations in the United States announced after April 16, 1973, the amount of the payment to which such agency shall be entitled under title I of such Act [subchapter II of this chapter], as computed under section 3 of such Act [this section], for any fiscal year ending prior to July 1, 1983, shall not be less than 90 per centum of the amount to which the agency was so entitled during the preceding fiscal year. The provisions of this subparagraph shall be effective on and after July 1, 1974, and with respect to appropriations for the fiscal year ending June 30, 1975, and succeeding fiscal years, and such provisions shall be deemed to have been enacted before the beginning of the fiscal year ending June 30, 1975. Nothing in this subparagraph shall be construed to decrease the amount of the payment to which any local educational agency is entitled for any fiscal year on the basis of entitlements created under section 3 of such Act of September 30, 1950 [this section].

"(C) During the first fiscal year in which the amendments made by subsection (a) are effective [see note for section 305(b)(1) of Pub. L. 93-380 under this section] and each of the succeeding fiscal years ending prior to July 1, 1983, the Commissioner shall determine with respect to each local educational agency in any State the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent employed on Federal property in a State or in a county other than the State or county, as the case may be, in which the school district of such agency is located but which is situated within a reasonable commuting distance from the school district of such agency. If the number of children determined under the preceding sentence is equal to at least 10 per centum of the total number of children determined with respect to such agency for such fiscal year under section 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [subsec. (b) of this section], the amount to which such agency shall be entitled with respect to a number of children determined under such section 3(b) [subsec. (b) of this section] for such fiscal year, shall not be less than 90 per centum of the amount which such agency received with respect to the number of children so determined during the preceding fiscal year, as computed under section 3 of such Act [this section].

[*See main edition for text of* (*D*)]

PAYMENTS TO SCHOOL DISTRICTS THROUGH SEPTEMBER 30, 1980, FOR EDUCATIONAL EXPENSES FOR PUPILS LIVING AT OR NEAR GRAND CANYON NATIONAL PARK ON TAX-EXEMPT REALTY OWNED BY UNITED STATES; COOPERATIVE AGREEMENTS; FUNDING

Pub. L. 95-244, Mar. 14, 1978, 92 Stat. 154, provided that:

"(a) The Secretary of the Interior (hereafter referred to as the 'Secretary') is authorized for the two-year period commencing October 1, 1978, and ending September 30, 1980 to make payments to reimburse the appropriate school district or districts (hereafter referred to as the 'districts') for educational facilities and services (including, where appropriate, transportation to and from school) incurred by said districts in providing educational benefits to pupils living at or near the Grand Canyon National Park upon real property owned by the United States which is not subject to taxation by State or local agencies: *Provided*, That the payments for any school year to said districts shall not exceed that part of the cost of operating and maintaining such facilities and providing such services which the number of pupils as defined above bears to the whole number of pupils in average daily attendance within said districts for that year.

"(b) If in the opinion of the Secretary of the Interior, the aforesaid educational facilities and services cannot be provided adequately and payment made therefor on a pro rata basis, as prescribed in subsection (a), the Secretary of the Interior may enter into cooperative agreements with State or local agencies for (1) the operation of school facilities, (2) for the construction and expansion of educational facilities at Federal expense, and (3) for contribution by the Federal Government, on an equitable basis satisfactory to the Secretary, to cover the increased cost to local agencies for providing the educational services required for the purposes of this section: *Provided*, That authority to make payments under this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(c) The Secretary shall submit an annual estimate of the anticipated payments which may be made in accordance with the provisions of this Act to the Committees on Appropriations of the United States Senate and House of Representatives. There are authorized to be appropriated an amount not to exceed $1,500,000 for fiscal year 1979 and an amount not to exceed $1,500,000 for fiscal year 1980 to carry out the provisions of this Act: *Provided*, That any appropriations made pursuant to this Act shall be reduced by the amount of any payments made to said districts pursuant to the Acts of September 23, 1950 (64 Stat. 906), as amended (20 U.S.C. 631 et seq.), and September 30, 1950 (64 Stat. 1100), as amended (20 U.S.C. 236 et seq.). Any amount appropriated pursuant to this Act for any fiscal year shall remain available until expended."

Section Referred to in Other Sections

This section is referred to in sections 239, 240, 241, 244, 635, 1228 of this title.

§ 239. Sudden and substantial increases in attendance

(a) Determination by Commissioner; amount of contribution

If the Commissioner determines for any fiscal year ending prior to October 1, 1983—

[*See main edition for text of* (*1*) *to* (*3*)]

then such agency shall be entitled to receive for such fiscal year an amount equal to the product of—

[*See main edition for text of* (*A*), (*B*), *and closing par.;* (*b*) *to* (*e*)]

(Sept. 30, 1950, ch. 1124, title I, § 4, formerly § 4, 64 Stat. 1104; Aug. 8, 1953, ch. 402, §§ 3-5, 67 Stat. 532-534; Aug. 12, 1955, ch. 868, §§ 1, 2, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, §§ 207, 208, 70 Stat. 972; Aug. 12, 1958, Pub. L. 85-620, title II, § 203, 72 Stat. 560; Oct. 3, 1961, Pub. L. 87-344, title I, § 102(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88-210, title III, § 302, formerly § 32, 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90-576, title I, § 101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88-665, title XI, § 1102(a), 78 Stat. 1109; renumbered and amended Apr. 11, 1965, Pub. L. 89-10, title I, §§ 3(b), 5, 79 Stat. 34, 36; Jan. 2, 1968, Pub. L. 90-247, title III, § 301(e), 81 Stat. 813; Apr. 13, 1970, Pub. L. 91-230, title II, § 201(b), 84 Stat. 154; Aug. 21, 1974, Pub. L. 93-380, title III, § 303(a)(2), 88 Stat. 522; Apr. 21, 1976, Pub. L. 94-273, § 3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95-561, title X, § 1001(c), 92 Stat. 2306.)

Amendments

1978—Subsec. (a). Pub. L. 95-561 substituted in provision preceding par. (1) "1983" for "1978".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 240. Payments

(a) Applications to Commissioner; time of submission; form; information

Any local educational agency desiring to receive the payments to which it is entitled for any fiscal year under sections 237, 238, or 239 of this title shall submit an application therefor through the State educational agency of the State in which such agency is located to the Commissioner. Such applications shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably require to enable him to carry out his functions under this subchapter and shall give adequate assurance that the applicant will submit such reports as the Commissioner may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of such payment.

(b) Payments by the Commissioner; early payments on the basis of estimates; Indian education

(1) The Commissioner shall pay to each local educational agency, making application pursuant to subsection (a) of this section, the amount to which it is entitled under sections 237, 238, or 239 of this title. Sums appropriated, for any fiscal year, to enable the Commissioner to make payments pursuant to this subchapter shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for obligation and payments with respect to amounts due local educational agencies under this subchapter for such fiscal year, until the end of the fiscal year succeeding the fiscal year for which such sums are appropriated.

(2) Not later than thirty days after the beginning of any fiscal year the Commissioner shall, on the basis of any application for preliminary payment from any local educational agency which was eligible for a payment during the preceding fiscal year on the basis of entitle-

ments established under section 237 or 238 of this title, make such a payment to such agency of not less than 75 per centum of the amount that such agency received during such preceding fiscal year.

(3)(A) Payments of entitlements under section 238(d)(2)(D) of this title shall be made only to local educational agencies which have, within one year of November 1, 1978, or when local educational agencies are formed after November 1, 1978, within one year of their formation, established such policies and procedures with respect to information received from Indian parents and tribes as required by this paragraph and which have made assurances to the Commissioner, at such time and in such manner as shall be determined by regulation, that such policies and procedures have been established. The Commissioner shall have the authority to waive this one-year limit for good cause, and in writing to the tribes to be affected.

(B) Each local educational agency shall establish such policies and procedures as are necessary to insure that—

(i) Indian children claimed under section 238(a) of this title participate on an equal basis in the school program with all other children educated by the local educational agency;

(ii) applications, evaluations, and program plans are adequately disseminated to the tribes and parents of Indian children claimed under section 238(a) of this title; and

(iii) tribes and parents of Indian children claimed under section 238(a) of this title are—

(I) afforded an opportunity to present their views with respect to the application, including the opportunity to make recommendations concerning the needs of their children and the ways by which they can assist their children in realizing the benefits to be derived from the educational programs assisted under this paragraph;

(II) actively consulted and involved in the planning and development of programs assisted under this paragraph; and

(III) afforded a general opportunity to present their overall views on the educational program, including the operation of such programs, and the degree of parental participation allowed.

(C)(i) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with the Commissioner regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of subparagraph (B) of this paragraph.

(ii) Within ten working days from receipt of the complaint, the Commissioner shall—

(I) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or, if the Commissioner determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

(II) designate a hearing examiner to conduct the hearing; and

(III) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

(iii) The hearing shall be held within thirty days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

(iv) The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceeding.

(v) Within thirty days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial actions (if any) which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Commissioner.

(vi) Within thirty days of his receipt of the findings, recommendations, and record, the Commissioner shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for his decision.

(vii) Upon completion of his final determination, the Commissioner shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Commissioner's final determination. The final determination of the Commissioner shall be subject to judicial review.

(viii) In all actions under this subparagraph, the Commissioner shall have discretion to consolidate complaints involving the same tribe or local educational agency.

(D) If the local educational agency rejects the determination of the Commissioner, or if the remedy required is not undertaken within the time established and the Commissioner determines that an extension of the time established will not effectively encourage the remedy required, the Commissioner shall withhold payment of all moneys to which such local agency is entitled under section 238(d)(2)(D) of this title until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency: *Provided*, That the Commissioner may not withhold such moneys during the course of the school year if he determines that it would substantially disrupt the educational programs of the local educational agency.

(E) If the local educational agency rejects the determination of the Commissioner and a tribe exercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with that Agency, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action (under such subsection (d)) was lodged may be counted with respect to that local educational agency for the purpose of receiving funds under section 238(d)(2)(D) of this title. In such event, funds under such section shall not be withheld pursuant to subparagraph (D) and no further complaints with respect to such students may be filed under subparagraph (C)(i).

(F) This paragraph is based upon the special relationship between the Indian nations and the United States and nothing in it shall be deemed to relieve any State of any duty with respect to any citizens of that State.

(c) Adjustments where necessitated by appropriations

If the sums appropriated for any fiscal year for making payments on the basis of entitlements established under sections 237, 238, and 239 of this title for that year are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies are entitled to receive under such sections for such year, the Commissioner shall allocate such sums among local educational agencies and make payments to such agencies as follows:

[*See main edition for text of (1)*]

(2)(A) From that part of such sums which remains after the allocation required by paragraph (1) for any fiscal year, he shall allocate an additional amount equal to 65 per centum of the amounts described in the following schedule:

(i) To each local educational agency—

(I) with respect to which the local contribution rate has been increased under paragraph (2)(B) of section 238(d) of this title, which equals 75 per centum of the amount to which such agency is entitled as computed under section 238(d) of this title for such fiscal year; and

(II) described in clause (A) of section 238(d)(1) of this title which equals 75 per centum of the amount to which such agency is entitled, as computed under section 238(d) of this title, with respect to a determination of number of children under section 238(a) and (b)(3) of this title of such fiscal year;

(ii) to each local educational agency which provides free public education for children who reside on Indian land, as described in clause (A) of section 244(1) of this title, which equals 75 per centum of the amount to which such agency is entitled under section 238(d)(2)(D) of this title;

(iii) to each local educational agency with respect to which a number of children is determined under clause (2) of section 238(a) of this title which equals 65 per centum of the amount to which such agency is entitled on the basis of determining such children as computed under section 238(d) of this title, for such fiscal year;

(iv) to each local educational agency with respect to which a number of children is determined under clause (1) of section 238(a) of this title which equals 63 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 238(d) of this title, for such fiscal year;

(v) to each local educational agency with respect to which a number of children is determined under clause (3) of section 238(b) of this title (other than such children with respect to whom a payment is made under clause (i)(II) of this subparagraph) which equals 35 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 238(d) of this title, for such fiscal year;

(vi) to each local educational agency with respect to which a number of children determined under clause (1) and clause (2)(A) of section 238(b) of this title which equals 32 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 238(d) of this title for such fiscal year;

(vii) to each local educational agency with respect to which a number of children is determined under clause (2)(B) of section 238(b) of this title which equals 28 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 238(d) of this title, for such fiscal year.

(B) From that part of the sums which remains after the allocation required by paragraph (1) and by subparagraph (A) of this paragraph for any fiscal year, he shall, in accordance with the requirements of subsection (e) of this section, allocate an amount not to exceed 35 per centum of the amounts described in the schedule set forth in subparagraph (A).

[*See main edition for text of (3)*]

No allocation may be made pursuant to paragraph (2) or (3) and no payment may be paid on the basis of any such allocation unless allocations are made pursuant to paragraph (1) and payments are made on the basis of such allocations. No allocation may be made pursuant to any clause of paragraph (2)(A) and no payment may be made on the basis of any such allocation unless allocations are made pursuant to all of the clauses of such paragraph and payments are made on the basis of such allocations.

(d) Treatment of payments by States to determine eligibility for, and amount of, State aid; notice and opportunity for hearing; "State aid" and "equalize expenditures" defined; State equalization

[*See main edition for text of (1)*]

(2) [*See main edition for text of (A) to (C)*]

(C)[1] (i) If a State desires to take payments under this section into consideration as provided in this paragraph for any fiscal year, that

---

[1] So in original. Probably should be "(D)".

State shall, not later than sixty days prior to the beginning of such fiscal year, submit notice to the Commissioner of its intention to do so. Such notice shall be in such form and be accompanied by such information as to enable the Commissioner to determine the extent to which the program of State aid of that State is consistent with the provisions of subparagraph (A). In addition, such notice shall be accompanied by such evidence as the Commissioner finds necessary that each local educational agency in that State has been given notice of the intention of the State. If the Commissioner determines that the program of State aid of a State submitting notice under this subparagraph is consistent with the provisions of subparagraph (A), the Commissioner shall certify such determination to that State.

(ii) Prior to certifying any determination under division (i) for any State for any fiscal year, the Commissioner shall give the local educational agencies in that State an opportunity for a hearing at which such agencies may present their views with respect to the consistency of the State aid program of that State with the provisions of subparagraph (A).

(iii) The Commissioner shall not finally deny to any State for any fiscal year certification of a determination under division (i) without first giving that State an opportunity for a hearing.

(e) Discretionary allocations

(1) In carrying out the required allocations under paragraph (2) of subsection (c) of this section, if any amount remains after making allocations under paragraph (2)(A) of such subsection, the Commissioner shall allocate, from the amounts available under paragraph (2)(B) of such subsection, to each local educational agency described in the schedule in such paragraph (2)(A) an amount which shall not be less than 90 per centum of the amount paid to such agency under this section for the preceding fiscal year. If sums appropriated for any fiscal year for making payments under this section are not sufficient to pay in full the amount to which each local educational agency is entitled under the previous sentence, such amounts shall be ratably reduced.

(2) Any sums which remain from the amounts available under paragraph (2)(B) of subsection (c) of this section after making payments required by the first sentence of paragraph (1) of this subsection shall be allocated by the Commissioner among local educational agencies which have unsatisfied entitlements under sections 238 and 239 of this title in accordance with appropriations Acts.

[*See main edition for text of (f)*]

(g) Hearing and review

Each local educational agency which is adversely affected or aggrieved by any action of the Commissioner under this subchapter shall be entitled to a hearing on, and review of, such action in the same manner as if such agency were a person under the provisions of chapters 5 and 7 of title 5.

(Sept. 30, 1950, ch. 1124, title I, § 5, formerly § 5, 64 Stat. 1106; Aug. 8, 1953, ch. 402, §§ 6, 7, 67 Stat. 534; Aug. 3, 1956, ch. 915, title II, § 209, 70 Stat. 972; renumbered and amended Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 27; Nov. 3, 1966, Pub. L. 89-750, title II, §§ 202, 203, 80 Stat. 1211, 1212; Oct. 16, 1968, Pub. L. 90-576, title III, § 305(a), 82 Stat. 1097; Apr. 13, 1970, Pub. L. 91-230, title II, § 203(c)(4), 84 Stat. 156; June 23, 1972, Pub. L. 92-318, title IV, § 411(c)(1), 86 Stat. 338; Aug. 21, 1974, Pub. L. 93-380, title III, §§ 304(c)(1), (2), (d)(2), 305(a)(2), 88 Stat. 522, 523, 529; Apr. 21, 1976, Pub. L. 94-273, § 3(5), 90 Stat. 376; Oct. 12, 1976, Pub. L. 94-482, title III, § 330(a), (b)(1)-(3), 90 Stat. 2221; Nov. 1, 1978, Pub. L. 95-561, title X, §§ 1003(c), 1005, 1006(a), 1007, 1008, title XI, § 1101(b), (c), (e), 92 Stat. 2306-2309, 2313, 2315; Aug. 6, 1979, Pub. L. 96-46, § 3(b), 93 Stat. 342.)

References in Text

Section 1101(d) of the Education Amendments of 1978, referred to in subsec. (b)(3)(E), is section 1101(d) of Pub. L. 95-561, title XI, Nov. 1, 1978, 92 Stat. 2315, which is set out as a note below.

Amendments

1979—Subsec. (b)(3)(C)(i). Pub. L. 96-46, § 3(b)(1), substituted "may, in its discretion and without regard to the requirements of any other provision of law, file" for "may file".

Subsec. (b)(3)(E). Pub. L. 96-46, § 3(b)(2), added subpar. (E). Former subpar. (E) redesignated as (F).

Subsec. (b)(3)(F). Pub. L. 96-46, § 3(b)(2), redesignated former subpar. (E) as (F).

Subsec. (c)(2)(A)(v). Pub. L. 96-46, § 3(b)(3), substituted "clause (i)(II) of this subparagraph" for "clause (A)(ii) of this paragraph".

1978—Subsec. (a). Pub. L. 95-561, § 1101(b), struck out designation "(1)" preceding "Any local educational agency" and struck out par. (2) which related to applications submitted for payments on the basis of children who resided, or resided with parents employed, on Indian lands.

Subsec. (b). Pub. L. 95-561, §§ 1005, 1101(c), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (c). Pub. L. 95-561, §§ 1003(c), 1007(a), 1101(e), added the subpar. designation "(A)" following the existing par. (2) designation, redesignated existing subpars. (A)-(F) as cls. (i)(II) and (iii)-(vii), respectively, of the redesignated par. (2)(A), added cls. (i)(I) and (ii) thereof, added par. (2)(B) following the redesignated par. (2)(A)(vii), added reference to section 238(b)(3) of this title in the redesignated par. (2)(A)(i)(II), added "(other than such children with respect to whom a payment is made under clause (A)(ii) of this paragraph)" following "section 238(b) of this title" in redesignated par. (2)(A)(v), substituted "amount equal to 65 per centum of the amounts described in the following schedule:" for "amount———" in the provisions preceding redesignated par. (2)(A)(i), and, in the provisions following par. (3), substituted "paragraph (2)(A)" for "paragraph (2)" the second place it appears.

Subsec. (d)(2)(C). Pub. L. 95-561, § 1006(a), added subpar. (C) relating to State equalization.

Subsec. (e). Pub. L. 95-561, § 1007(b), substituted provisions relating to the allocation of amounts remaining after making the allocations under subsec. (c)(2)(A) of this section for provisions setting limitations on payments with respect to children on, or residing with a parent employed on, Federal property described in section 244(1)(C) of this title.

Subsec. (g). Pub. L. 95-561, § 1008, added subsec. (g).

Effective Date of 1979 Amendment

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective

Date of 1979 Amendment note under section 2701 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1101(b) of Pub. L. 95-561 provided in part that the amendment of subsec. (a) by Pub. L. 95-561 is effective with respect to fiscal years beginning on or after Nov. 1, 1978.

Amendment of subsec. (b)(1) and (2) of this section by section 1005 of Pub. L. 95-561 effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

Section 1101(c) of Pub. L. 95-561 provided in part that the enactment of subsec. (b)(3) of this section is effective with respect to fiscal years beginning on or after Nov. 1, 1978.

The amendment of the provisions of subsec. (c)(2)(A) preceding cl. (i) and of cls. (i) and (iii)-(vii) thereof, the enactment of subsec. (c)(2)(B), the amendment of the provisions of subsec. (c) following par. (3), and the amendment of subsec. (e) by sections 1003(c) and 1007 of Pub. L. 95-561 to be effective with respect to fiscal year 1980 and subsequent fiscal years, see section 1032(2) of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

Section 1101(e) of Pub. L. 95-561 provided in part that the enactment of subsec. (c)(2)(A)(ii) of this section by Pub. L. 95-561 is effective with respect to fiscal years beginning on or after Nov. 1, 1978.

Enactment of subsec. (d)(2)(C) of this section by section 1006(a) of Pub. L. 95-561 effective Nov. 1, 1978, see section 1032(1) of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

Enactment of subsec. (g) of this section by section 1008 of Pub. L. 95-561 effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

NONCOMPLIANCE WITH REGULATIONS; RESTITUTION OF FUNDS DISTRIBUTED TO LOCAL AGENCIES FOR 1977-1978 SCHOOL YEAR

Section 1006(b) of Pub. L. 95-561 provided that: "No State or local educational agency located therein shall, on the basis of noncompliance with standards established by regulations prescribed pursuant to section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [subsec. (d)(2) of this section], be required to make restitution of funds distributed to local educational agencies under such Act for the 1977-1978 school year if such State has an equalization program which, for the 1978-1979 school year complies with such standards."

CONTRACT AUTHORITY OF INDIAN TRIBES IF REMEDIAL ACTION IS NOT TAKEN; ELECTION TO HAVE SERVICES PROVIDED BY BUREAU SCHOOLS; SPECIAL REGULATIONS

Section 1101(d) of Pub. L. 95-561 provided that: "Within one year of the date of enactment of this Act [Nov. 1, 1978], the Secretary, in cooperation with the Commissioner, shall propose and promulgate special regulations which will provide that where a local educational agency does not undertake the remedial action required by the Commissioner under section 5(b)(3)(C)(vi) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [subsec. (b)(3)(C)(vi) of this section] and the Commissioner determines that an extension of time will not effectively encourage the remedy, the affected tribes may elect to contract with the Bureau under title I of the Indian Self-Determination and Education Assistance Act [see Short Title note of title I of Pub. L. 93-638 set out under section 450 of Title 25, Indians] to provide educational services provided by the local educational agency or elect to have such services provided by a Bureau of Indian Affairs school. Such regulations shall also establish procedures whereby the funding necessary to provide such educational services may be obtained, and establish such procedures as are necessary to insure orderly and expeditious transition in provision of educational services."

§ 241. Education of children where local agencies cannot supply facilities

(a) Necessary arrangements by Commissioner; standard of education

In the case of children who reside on Federal property—

[*See main edition for text of (1) and (2)*]

the Commissioner shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section, shall take such action as may be necessary to ensure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, or, in the case of education provided under this section outside the continental United States, Alaska, and Hawaii, comparable to free public education provided for children in the District of Columbia. For the purpose of providing such comparable education, personnel may be employed and the compensation, tenure, leave, hours of work, and other incidents of the employment relationship may be fixed without regard to the Civil Service Act and rules and the following: (1) chapter 51 and subchapter III of chapter 53 of title 5; (2) subchapter I of chapter 63 of title 5; (3) sections 5504, 5541 to 5549, and 6101 of title 5; (4) sections 3305(b), 3306(a)(2), 3308 to 3318, 3319(b), 3320, 3351, 3363, 3364, 3501 to 3504, 7511, 7512, and 7701 of title 5; and (5) chapter 43 of title 5. Personnel provided for under this subsection outside of the continental United States, Alaska, and Hawaii, shall receive such compensation, tenure, leave, hours of work, and other incidents of employment on the same basis as provided for similar positions in the public schools of the District of Columbia. In any case where education was being provided on January 1, 1955, or thereafter under an arrangement made under this subsection for children residing on an Army, Navy (including the Marine Corps), or Air Force installation, it shall be presumed, for the purposes of this subsection, that no local educational agency is able to provide suitable free public education for the children residing on such installation, until the Commissioner and the Secretary of the military department concerned jointly determine, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

[*See main edition for text of* (*b*)]

(c) Education of children whose parents are employed in certain Territories and Possessions

In any case in which the Commissioner makes arrangements under this section for the provision of free public education in facilities situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands, he may also make arrangements for providing free public education in such facilities for children residing with a parent employed by the United States in a grade, position, or classification subject by policy and practice to transfer or reassignment to areas where English is the language of instruction in the schools normally attended by children of Federal employees. Dependents of excepted service professional employees of the schools shall be eligible to attend the schools. In any case where education is being provided under an arrangement made under this subsection, it shall be presumed that no local educational agency is able to provide suitable free public education for the children of eligible parents employed by the United States until the Commissioner determines, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

(d) Restrictions on making arrangements

The Commissioner may make an arrangement under this section only with a local educational agency or with the head of a Federal department or agency administering Federal property on which children reside who are to be provided education pursuant to such arrangement or, in the case of children to whom the second sentence of subsection (a) of this section applies, with the head of any Federal department or agency having jurisdiction over the parents of some or all of such children. Except where the Commissioner makes arrangements pursuant to the second sentence of subsection (a) of this section, arrangements may be made under this section only for the provision of education in facilities of a local educational agency or in facilities situated on Federal property. The Commissioner shall ensure that funds provided under such arrangement or arrangements are expended in an efficient manner, and shall require an accounting of funds by such agency at least on an annual basis. The Commissioner shall further be provided with data relating to the quality and type of education provided to such children under such arrangement or arrangements.

[*See main edition for text of* (*e*) *and* (*f*)]

(g) Elective school boards

The Commissioner shall ensure the establishment of an elective school board in schools assisted under this section. Such school board shall be composed of a minimum of three members, elected by the parents of students in attendance at such school. The Commissioner shall, by regulation, establish procedures for carrying out such school board elections as provided in this subsection.

(h) School board oversight of school expenditures and operations

A school board established pursuant to subsection (g) of this section shall be empowered to oversee school expenditures and operations, subject to audit procedures established by the Commissioner, and other provisions of this section.

(Sept. 30, 1950, ch. 1124, title I, § 6, formerly § 6, 64 Stat. 1107; Aug. 8, 1953, ch. 402, § 8, 67 Stat. 535; Aug. 1, 1955, ch. 446, 69 Stat. 433; Aug. 1, 1956, ch. 852, § 10, 70 Stat. 909; May 6, 1960, Pub. L. 86-449, title V, § 501, 74 Stat. 89; renumbered and amended Apr. 11, 1965, Pub. L. 89-10, title I, §§ 2, 4(d)(2), 79 Stat. 27, 35; July 21, 1965, Pub. L. 89-77, § 2, 79 Stat. 243; Nov. 3, 1966, Pub. L. 89-750, title II, § 204, 80 Stat. 1212; Apr. 13, 1970, Pub. L. 91-230, title IV, § 401(f)(1), 84 Stat. 173; Nov. 1, 1978, Pub. L. 95-561, title X, §§ 1009, 1031(a), 92 Stat. 2309, 2312.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561, § 1009(a), added provision that compensation, tenure, leave, hours of work, and other incidents of employment for personnel outside of the continental United States, Alaska, and Hawaii be on the same basis as provided for similar positions in the public schools of the District of Columbia.

Subsec. (c). Pub. L. 95-561, §§ 1009(b), 1031(a), extended the provisions to include facilities situated on Federal property in the Northern Mariana Islands and modified the provisions regarding parental status to determine a child's eligibility to enter schools in facilities on Federal property by substituting provision requiring the parent be employed by the Federal government in a grade, position, or classification subject to transfer to an area where English is the language of instruction and that it will be presumed that no local educational agency is able to provide a suitable education unless the Commissioner determines otherwise for provision requiring the Commissioner first determine that the parent was employed by the Federal government and that the type of education was approved and could not be provided by a local educational agency, after consultation with the State educational agency.

Subsec. (d). Pub. L. 95-561, § 1009(c), added requirements that the Commissioner ensure that funds are expended in an efficient manner, that an accounting of funds be made at least on an annual basis, and that the Commissioner be provided with data relating to the quality and type of education being provided.

Subsecs. (g), (h). Pub. L. 95-561, § 1009(d), added subsecs. (g) and (h).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

DEPENDENTS OF FEDERAL AVIATION ADMINISTRATION PERSONNEL

Repealed:

Pub. L. 96-131, title III, § 307, Nov. 30, 1979, 93 Stat. 1037.

Pub. L. 95-335, title III, § 310, Aug. 4, 1978, 92 Stat. 448.

Pub. L. 95-85, title III, § 310, Aug. 2, 1977, 91 Stat. 416.

§ 241-1. Assistance for current school expenditures in cases of certain disasters

(a) Eligibility requirements; terms; duration; maximum amount

In any case in which—

(1)(A) the Secretary of Housing and Urban Development determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which after August 30, 1965, and prior to October 1, 1983, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to sections 5122(2) and 5141 of title 42, is or threatens to be of sufficient severity or magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities of such agency have been destroyed or seriously damaged prior to October 1, 1983 as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

[*See main edition for text of* (2) *to* (4) *and concluding par.;* (*b*)]

(c) Authorization of appropriations; expenditure of sums pending appropriation

There is hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner is authorized to expend (without regard for subsections (a) and (e) of section 665 of title 31) from any funds appropriated to the Office of Education and at that time available to the Commissioner, such sums as may be necessary for providing immediate assistance under this section. Expenditures pursuant to the preceding sentence shall—

(1) be reported by the Commissioner to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Human Resources of the Senate within thirty days of the expenditure;

(2) be reimbursed from the appropriations authorized by the first sentence of this subsection.

The report required to the Committees on Appropriations by clause (1) in the preceding sentence shall constitute a budget estimate within the meaning of section 11(a)(5) of title 31.

(d) Applications; priority of approvals; prompt consideration for applications

No payment may be made to any local educational agency under this section except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications. In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.

[*See main edition for text of* (*e*)]

(Sept. 30, 1950, ch. 1124, title I, § 7, as added Nov. 1, 1965, Pub. L. 89-313, § 2, 79 Stat. 1159, and amended Jan. 2, 1968, Pub. L. 90-247, title II, § 218, 81 Stat. 811; Oct. 21, 1968, Pub. L. 90-608, title IV, § 402, 82 Stat. 1194; Apr. 13, 1970, Pub. L. 91-230, title II, § 201(c), 84 Stat. 154; Dec. 31, 1970, Pub. L. 91-606, title III, § 301(e), 84 Stat. 1759; Dec. 10, 1973, Ex. Ord. No. 11749, § 2(2), 38 F.R. 34177; May 22, 1974, Pub. L. 93-288, title VI, § 602(e), 88 Stat. 163; Aug. 21, 1974, Pub. L. 93-380, title III, §§ 303(a)(3), 305(a)(3), 88 Stat. 522, 532; Apr. 21, 1976, Pub. L. 94-273, § 3(5), 90 Stat. 376; S. Res. 4, Feb. 4, 1977; Nov. 1, 1978, Pub. L. 95-561, title X, § 1010(a), 92 Stat. 2310; S. Res. 30, Mar. 7, 1979; Aug. 6, 1979, Pub. L. 96-46, § 3(a), 93 Stat. 342.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-46 substituted "October 1, 1983" for "October 1, 1978" in two places.)

1978—Subsec. (d). Pub. L. 95-561 added provisions for the prompt consideration of applications.

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

DELEGATION OF FUNCTIONS

Functions of the Director of the Office of Emergency Preparedness under this section, previously transferred to the President, were delegated to the Director of the Federal Emergency Management Agency, by section 4-106 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, set out as a note under section 2251 of the Appendix to Title 50, War and National Defense.

SUBCHAPTER II—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

§ 241a. Repealed. Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section, act Sept. 30, 1950, ch. 1124, title II, § 101, formerly title II, § 201, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 27, renumbered and amended Jan. 2, 1968, Pub. L. 90-247, title I, §§ 108(a)(2), 110, 81 Stat. 786, 787; Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(2), 84 Stat. 126, set out the Congressional declaration of policy with regard to the program of assistance to local educational agencies for the education of children of low income families. See section 2701 of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

SHORT TITLE

Act Sept. 30, 1950, ch. 1124, title II, § 152, formerly title II, § 214, as added by Pub. L. 89-750, title I, § 116, Nov. 3, 1966, 80 Stat. 1198, renumbered § 236 and further renumbered § 136 by Pub. L. 90-247, title I, §§ 108(a)(4), 110, Jan. 2, 1968, 81 Stat. 786, 787; renumbered § 150 by Pub. L. 91-230, title I, § 113(b)(4), Apr. 13, 1970, 84 Stat. 126; renumbered § 152 by Pub. L. 93-380, title I, § 101(a)(8), Aug. 21, 1974, 88 Stat. 499, which provided that this subchapter be cited as "Title I of the Elementary and Secondary Education Act of 1965" was omitted from the Code as obsolete in view of the general revision of Title I of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143, known as the Education Amendments of 1978. See section 2701 et seq. of this title.

SAFE SCHOOLS; INFORMATION, SUBMITTAL TO SECRETARY; REPORT TO CONGRESS; REIMBURSEMENT TO STATE AGENCIES; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93-380, title VIII, § 825, Aug. 21, 1974, 88 Stat. 602, as amended by Pub. L. 94-482, title IV, § 409(d), title V, § 501(a)(17), Oct. 12, 1976, 90 Stat. 2233, 2236, directed the Secretary to make a study, during the period Aug. 21, 1974 to Aug. 31, 1977, to determine the frequency and seriousness of crime in elementary and secondary schools, the number and location of schools affected, the per-pupil average incidence of crimes in these schools in urban, suburban, and rural schools, the cost of replacement of books, supplies, etc. and the means of preventing such crimes, authorized the Secretary to request State educational agencies supply him with necessary records and data and to reimburse these agencies for the expenses incurred in complying with his request, authorized appropriations as necessary to carry out this study, and directed that not later than Aug. 31, 1977, the Secretary submit a report to Congress on the results of this study, accompanied by his recommendations.

ATHLETIC INJURIES; INFORMATION, SUBMITTAL TO SECRETARY; REPORT TO CONGRESS; "SCHOOL" DEFINED; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93-380, title VIII, § 826, Aug. 21, 1974, 88 Stat. 603, as amended by Pub. L. 94-482, title V, § 501(a)(18), (19), Oct. 12, 1976, 90 Stat. 2236, directed the Secretary to make a study, from a representative sample of schools, to determine the number of athletic injuries and deaths of male and female students occurring, in athletic competition between schools, in any practice session, or in any other school-related athletic activities for the 12 month period beginning July 1, 1975 and to compare the number of injuries and deaths at schools with an athletic trainer or other medical or health professional personnel and schools without such personnel, authorized the Secretary to request records and data from schools, defined "school" as secondary schools or institutes of higher education as defined in former section 881 [now 3381] of this title, authorized $75,000 to carry out this study, and directed that not later than 18 months after July 1, 1976, the Secretary submit a report to Congress on the results of this study, accompanied with his recommendation.

PARENTAL PARTICIPATION FOR FINANCIAL ASSISTANCE UNDER SUBCHAPTER; INDIAN LANDS

Pub. L. 92-318, title IV, § 411(c)(2), June 23, 1972, 86 Stat. 339, which directed the Commissioner to exercise his authority under section 1231d of this title to encourage local parental participation with respect to financial assistance under this subchapter, based upon children who reside on, or reside with a parent employed on Indian lands and defined Indian land as property within the definition of Federal property contained in section 244(1) of this title, was omitted from the Code as obsolete in view of the repeal of this subchapter by Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200.

§ 241b. Repealed. Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section, act Sept. 30, 1950, ch. 1124, title II, § 102, formerly title II, § 202, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 27, amended Nov. 3, 1966, Pub. L. 89-750, title I, § 101, 80 Stat. 1191, and renumbered and amended Jan. 2, 1968, Pub. L. 90-247, title I, §§ 108(a)(2), 110, title III, § 301(a), 81 Stat. 786, 787, 813; Apr. 13, 1970, Pub. L. 91-230, title I, §§ 101(a), 113(b)(3), 84 Stat. 121, 126; Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(1), 88 Stat. 488; Apr. 21, 1976, Pub. L. 94-273, § 2(12), 90 Stat. 375; Sept. 24, 1977, Pub. L. 95-112, § 2(a)(1), 91 Stat. 911, set out the duration of the period during which the Commissioner could make payments for grants made on the basis of entitlements under this subchapter. See section 2702 of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§ 241b–1. Transferred

CODIFICATION

Section, Pub. L. 93-380, title I, § 101(a)(10), Aug. 21, 1974, 88 Stat. 501, which authorized appropriations for assistance to local educational agencies whose total basic grants allotment was 90 percent or less than the allotment during the preceding year, was transferred to section 2713 of this title.

PART A—BASIC GRANTS

SUBPART 1—GRANTS TO LOCAL EDUCATIONAL AGENCIES

§ 241c. Repealed. Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section, act Sept. 30, 1950, ch. 1124, title II, § 103, formerly title II, § 203, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 28, amended July 21, 1965, Pub. L. 89-77, § 3, 79 Stat. 243; Nov. 1, 1965, Pub. L. 89-313, § 6(a), 79 Stat. 1161; Nov. 3, 1966, Pub. L. 89-750, title I, §§ 102, 103(a), 104, 105(a), (b)(1), (2), (c), 106, 107, 108(b)(1), 113(b), 117(a)(2), (3), 80 Stat. 1191-1195, 1197, 1198, and renumbered and amended Jan. 2, 1968, Pub. L. 90-247, title I, §§ 101, 103(a), 104(a), (b), 105, 107(a), 108(a)(2), 110, 81 Stat. 783-787; Oct. 16, 1968, Pub. L. 90-576, title III, § 307, 82 Stat. 1097; Apr. 13, 1970, Pub. L. 91-230, title I, §§ 101(b), 103, 104(a), 105(a), (b), 106, 107, 113(a), 84 Stat. 121-124, 126; June 23, 1972, Pub. L. 92-318, title IV, § 411(b)(1), (2), title V, § 508, 86 Stat. 338, 352; Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(A)(i)(II), (ii), (B)-(D), 88 Stat. 488, 490, 491; Apr. 21, 1976, Pub. L. 94-273, § 49(a)-(c), 90 Stat. 382, authorized grants to local educational agencies. See section 2711 of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

DETERMINATION OF CHILDREN TO BE COUNTED

Pub. L. 91-230, title I, § 102(b), Apr. 13, 1970, 84 Stat. 122, which provided in part that notwithstanding the provision of this section requiring the Commissioner, in determining the number of children from families below the poverty level, to utilize the criteria of poverty used by the Bureau of Census in compiling the 1970 decennial census, the Commissioner was not to use data from the 1970 census of the United States prior to July 1, 1972, was omitted from the Code as obsolete in view of the repeal of this section by Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200.

SURVEY AND STUDY FOR UPDATING NUMBER OF CHILDREN COUNTED

Pub. L. 93-380, § 822, as amended by Pub. L. 94-482, title V, § 501(a)(14), Oct. 12, 1976, 90 Stat. 2235, directed the Secretary of Commerce, in consultation with the Secretary of Health, Education, and Welfare to expand the current population survey in order to furnish current data for each State with respect to the total number of school-age children in each State to be counted for the purposes of this section and to report the results of this survey to Congress, not later than Dec. 31, 1976, and directed the Secretary of Commerce and the Secretary of Health, Education, and Welfare to study the feasibility of updating the number of counted children for purposes of this section in school districts of local educational agencies in order to make adjustments in the amounts of grants for which educational agencies were entitled under this section and to report the results of this study, accompanied by recommendations, to Congress not later than 6 months after the completion of the survey.

PUERTO RICO; AMOUNT OF GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND COMMONWEALTH OPERATED PROGRAM

Pub. L. 93-380, title VIII, § 843(d), Aug. 21, 1974, 88 Stat. 611, as amended by Pub. L. 94-273, § 48(a), Apr. 21, 1974, 90 Stat. 382, which provided that notwithstanding section 241 et seq. of this title, the amount which the Commonwealth of Puerto Rico was eligible to receive under this section or sections 241c-1, 241c-2, or 241c-3 of this title for the fiscal year ending June 30, 1975 was not to exceed 50 percent of the full amount the Commonwealth of Puerto Rico was to receive, after required ratable reductions, but for this provision and for the fiscal years ending June 30, 1976, Sept. 30, 1977, and Sept. 30, 1978, an amount not to exceed 75 percent of the full amount the Commonwealth of Puerto Rico was to receive, after required ratable reductions, under this section and sections 241c-1, 241c-2, or 241c-3 of this title, but for this provision, was omitted from the Code as obsolete in view of the repeal of this section and sections 241c-1, 241c-2, or 241c-3 of this title by Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200.

SUBPART 2—STATE OPERATED PROGRAMS

§§ 241c-1 to 241c-5. Repealed. Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241c-1, act Sept. 30, 1950, ch. 1124, title II, § 121, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 491, provided for programs for handicapped children. See section 2771 of this title.

Section 241c-2, act Sept. 30, 1950, title II, § 122, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 492, provided for programs for migratory children. See section 2761 of this title.

Section 241c-3, act Sept. 30, 1950, ch. 1124, title II, § 123, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 494, provided for programs for neglected or delinquent children. See section 2781 of this title.

Section 241c-4, act Sept. 30, 1950, ch. 1124, title II, § 124, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 494, provided for the reservation of funds for territories. See section 2791 of this title.

Section 241c-5, act Sept. 30, 1950, ch. 1124, title II, § 125, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 495, and amended Apr. 21, 1976, Pub. L. 94-273, § 3(8), 90 Stat. 376; Oct. 12, 1976, Pub. L. 94-482, title V, § 501(b)(1)(A), (*o*), 90 Stat. 2236, 2238; Sept. 24, 1977, Pub. L. 95-112, § 2(a)(1), 91 Stat. 911, related to minimum payments for State operated programs. See section 2792 of this title.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

PART B—SPECIAL INCENTIVE GRANTS

§§ 241d to 241d-2. Repealed. Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241d, act Sept. 30, 1950, ch. 1124, title II, § 126, formerly § 121, as added Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(6), 84 Stat. 126, renumbered Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(3), 88 Stat. 495, and amended Oct. 12, 1976, Pub. L. 94-482, title V, § 501(b)(1)(B), 90 Stat. 2236, related to the maximum entitlement for special incentive grants. See section 2721 of this title.

Section 241d-1, act Sept. 30, 1950, ch. 1124, title II, § 127, formerly § 122, as added Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(6), 84 Stat. 126, renumbered Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(3), 88 Stat. 495, and amended Oct. 12, 1976, Pub. L. 94-482, title V, § 501(a)(1), 90 Stat. 2235, related to the application made for special incentive grants by States. See section 2802 of this title.

Section 241d-2, act Sept. 30, 1950, ch. 1124, title II, § 128, formerly § 123, as added Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(6), 84 Stat. 127, renumbered Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(3), 88

Stat. 495, and amended Oct. 12, 1976, Pub. L. 94-482, title V, § 501(a)(1), 90 Stat. 2235, defined the term "effort index".

Effective Date of Repeal

Sections repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Part C—Special Grants

§ 241d-11. Repealed. Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section, act Sept. 30, ch. 1124, title II, § 131, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(4)(A), 88 Stat. 495, related to eligibility for and maximum amount of special grants. See section 2722 of this title.

A prior section 241d-11, act Sept. 30, 1950, ch. 1124, title II, § 131, as added Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(6), 84 Stat. 127, which also related to eligibility and maximum amount of special grants for urban and rural schools serving areas with the highest concentrations of children from low-income families, was repealed by Pub. L. 93-380, title I, § 101(a)(4)(B), Aug. 21, 1974, 88 Stat. 496, effective July 1, 1975.

Effective Date of Repeal

Section repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§ 241d-12. Repealed. Pub. L. 93-380, title I, § 101(a)(4)(B), Aug. 21, 1974, 88 Stat. 496

Section, act Sept. 30, 1950, ch. 1124, title II, § 132, as added Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(6), 84 Stat. 128, related to uses of funds for such special grants.

Effective Date of Repeal

Section repealed effective July 1, 1975, pursuant to Pub. L. 93-380, § 101(a)(4)(B).

Part D—General Provisions

§§ 241e to 241h. Repealed. Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241e, act Sept. 30, 1950, ch. 1124, title II, § 141, formerly title II, § 205, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 30, amended Nov. 3, 1966, Pub. L. 89-750, title I, §§ 103(b), 108(b)(1), (2), 110, 111(a)-(e), 80 Stat. 1192, 1195, 1196, renumbered title I, § 105 and amended Jan. 2, 1968, Pub. L. 90-247, title I, §§ 103(b), 106, 108(a)(2), 109, 110, 81 Stat. 783, 784, 786, 787, renumbered title I, § 141 and amended Apr. 13, 1970, Pub. L. 91-230, title I, §§ 108, 109(a), 110, 111(b), 113(b)(3), (4), (7), 84 Stat. 124-126, 128; June 23, 1972, Pub. L. 92-318, title V, § 507(a), (b), 86 Stat. 352; Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(5), (9)(A), (B), 88 Stat. 496, 500; Oct. 12, 1976, Pub. L. 94-482, title V, § 501(b)(1)(C), (D), 90 Stat. 2236, related to applications for grants by local agencies. See section 2731 of this title.

Section 241e-1, act Sept. 30, 1950, ch. 1124, title II, § 141A, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(6), 88 Stat. 497, related to the participation of children enrolled in private schools. See section 2740 of this title.

Section 241f, act Sept. 30, 1950, ch. 1124, title II, § 142, formerly title II, § 206, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 31, amended Nov. 1, 1965, Pub. L. 89-313, § 6(b), 79 Stat. 1162; Nov. 3, 1966, Pub. L. 89-750, title I, § 103(c)(1), 80 Stat. 1193, renumbered title I, § 106, and amended Jan. 2, 1968, Pub. L. 90-247, title I, §§ 103(c), 108(a)(2), 110, 81 Stat. 783, 786, 787, and renumbered title I, § 142 and amended Apr. 13, 1970, Pub. L. 91-230, title I, §§ 111(a), 113(b)(3), (4), 84 Stat. 125, 126; Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(9)(D), (E), 88 Stat. 500, related to the assurances required from States desiring to participate. See section 2734 of this title.

Section 241g, act Sept. 30, 1950, ch. 1124, title II, § 143, formerly title II, § 207, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 32, amended Nov. 1, 1965, Pub. L. 89-313, § 7(a), 79 Stat. 1162; Nov. 3, 1966, Pub. L. 89-750, title I, §§ 103(c)(2), 108(b)(3), 112, 113(a), 80 Stat. 1193, 1195, 1197, renumbered title I, § 107 and amended Jan. 2, 1968, Pub. L. 90-247, title I, §§ 102, 103(c), 108(a)(2), 110, 81 Stat. 783, 786, 787 and renumbered title I, § 143 and amended Apr. 13, 1970, Pub. L. 91-230, title I, §§ 113(b)(3), (4), (8), 114, 84 Stat. 126, 129, 130; Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(9)(C), (F), (G), title VIII, § 843(a)(1), 88 Stat. 500, 611; Oct. 12, 1976, Pub. L. 94-482, title III, § 323(a)(1), 90 Stat. 2217, related to the payment of funds. See section 2841 of this title.

Section 241h, act Sept. 30, 1950, ch. 1124, title II, § 144, formerly title II, § 208, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 33, amended Nov. 3, 1966, Pub. L. 89-750, title I, § 114, 80 Stat. 1197, renumbered title I, § 108 and amended Jan. 2, 1968, Pub. L. 90-247, title I, §§ 107(b), 110, 81 Stat. 785, 787, renumbered title I, § 144 and amended Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(3), (4), (c), (d), 84 Stat. 126, 129; Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(7), (9)(H), 88 Stat. 498, 500, related to the adjustments necessitated by appropriations. See section 2843 of this title.

Effective Date of Repeal

Sections repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§§ 241h-1, 241i. Repealed. Pub. L. 91-230, title I, § 113(b)(6), title IV, § 401(g)(1), Apr. 13, 1970, 84 Stat. 126, 174

Section 241h-1, act Sept. 30, 1950, ch. 1124, title II, § 121, formerly title II, § 221, as added and renumbered Jan. 2, 1968, Pub. L. 90-247, title I, §§ 108(a)(5), 110, 81 Stat. 786, 787, and amended Apr. 13, 1970, Pub. L. 91-230, title I, § 101(c), 84 Stat. 121, related to special incentive grants and provided in: subsec. (a) for amount and distribution of such grants; subsec. (b) for application for grant and disapproval only after notice and opportunity for hearing; subsec. (c) definitions of "State effort index" and "national effort index"; and subsec. (d) authorization of appropriations of $50,000,000 for fiscal year ending June 30, 1969, and for each of the succeeding fiscal years ending prior to July 1, 1973.

Section 241i, act Sept. 30, 1950, ch. 1124, title II, § 145, formerly § 131, formerly title II, § 209, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 33, renumbered § 231 and further renumbered § 131, Jan. 2, 1968, Pub. L. 90-247, title I, §§ 108(a)(4), 110, 81 Stat. 786, 787, and renumbered 145, Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(4), 84 Stat. 126, related to labor standards requirements (prevailing wage rates). See section 1232b of this title.

§§ 241j to 241o. Repealed. Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241j, act Sept. 30, 1950, ch. 1124, title II, § 146, formerly title II, § 210, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 33, amended Nov. 3, 1966, Pub. L. 89-750, title I, § 103(c)(3), 80 Stat. 1193, renumbered title II, § 232, amended and further renumbered title I, § 132, Jan. 2, 1968, Pub. L. 90-247, title I, §§ 108(a)(4), (b), 110, 81 Stat. 786, 787, and renumbered title I, § 146, and amended Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(4), (9), 84 Stat. 126, 129; Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(9)(I), 88 Stat. 501, related to the withholding of funds for noncompliance with assurances. See section 2836 of this title.

Section 241k, act Sept. 30, 1950, ch. 1124, title II, § 147, formerly title II, § 211, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 33, amended Nov. 3, 1966, Pub. L. 89-750, title I, § 103(c)(4), 80 Stat. 1193, renumbered title II, § 233, amended and further renumbered title I, § 133, Jan. 2, 1968, Pub. L. 90-247, title I, §§ 108(a)(4), (b), 110, 81 Stat. 786, 787, renumbered title I, § 147, and amended Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(4), (10), 84 Stat. 126, 129; Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(9)(J), 88 Stat. 501, related to judicial review. See section 2851 of this title.

Section 241*l*, act Sept. 30, 1950, ch. 1124, title II, § 148, formerly title II, § 134, formerly title II, § 212, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 34, amended Nov. 3, 1966, Pub. L. 89-750, title I, § 115, 80 Stat. 1197, renumbered title II, § 234, amended and further renumbered title I, § 134, Jan. 2, 1968, Pub. L. 90-247, title I, §§ 108(a)(4), 110, 114, 81 Stat. 786-788, and renumbered title I, § 148, and amended Apr. 13, 1970, Pub. L. 91-230, title I, §§ 112, 113(b)(4), 84 Stat. 125, 126; Aug. 21, 1974, Pub. L. 93-380, title VIII, § 845(a), 88 Stat. 612; Apr. 21, 1976, Pub. L. 94-273, § 3(8), 90 Stat. 376; Sept. 24, 1977, Pub. L. 95-112, § 2(a)(3), 91 Stat. 911, created the National Advisory Council on the Education of Disadvantaged Children. See section 2852 of this title.

Section 241m, act Sept. 30, 1950, ch. 1124, title II, § 149, formerly title II, § 213, as added Nov. 3, 1966, Pub. L. 89-750, title I, § 109, 80 Stat. 1195, renumbered title II, § 235, and further renumbered title I, § 135, Jan. 2, 1968, Pub. L. 90-247, title I, §§ 108(a)(4), 110, 81 Stat. 786, 787, and renumbered title I, § 149, Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(4), 84 Stat. 126, related to the treatment of earnings for purposes of aid to families with dependent children. See section 2712 of this title.

Section 241n, act Sept. 30, 1950, ch. 1124, title II, § 150, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(8), 88 Stat. 499, related to the allocation of funds within school districts of local educational agencies. See section 2736 of this title.

Section 241*o*, act Sept. 30, 1950, ch. 1124, title II, § 151, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(8), 88 Stat. 499, and amended Apr. 21, 1976, Pub. L. 94-273, § 3(8), 90 Stat. 376; Oct. 12, 1976, Pub. L. 94-482, title V, § 501(b)(1)(E), (p), 90 Stat. 2236, 2238, related to the system of program evaluation. See section 2833 of this title.

Effective Date of Repeal

Sections repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

SUBCHAPTER III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR EDUCATION OF INDIAN CHILDREN

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1221f, 1221g, 1221h, 3385 of this title.

§ 241aa. Congressional declaration of policy

(a) In recognition of the special educational and culturally related academic needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational or culturally related academic needs, or both.

[*See main edition for text of* (*b*)]

(As amended Nov. 1, 1978, Pub. L. 95-561, title XI, § 1142(a), 92 Stat. 2329.)

Amendments

1978—Subsec. (a). Pub. L. 95-561 inserted references to the culturally related academic needs of Indian students.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Program Monitoring

Section 1149 of Pub. L. 95-561 provided that:

"(a) The Commissioner shall establish a method of auditing on an annual basis a sample of not less than one-third of the total number of school districts receiving funds under part A of the Indian Education Act [this subchapter] and shall report to the Congress his findings.

"(b) Any falsification of information provided on the local educational agency application for funds under part A of such Act is punishable by impoundment of unused funds and an ineligibility for receiving any future entitlement under such Act [see section 401 of Pub. L. 92-318 set out as a Short Title note under this section in the main edition].

"(c) Any falsification of information provided on the student eligibility form for funds under part A of such Act is punishable by making that individual ineligible for receiving any future entitlement under the Act."

§ 241bb. Grants to local educational agencies

(a) Entitlement; computation; average per pupil expenditure

(1) For the purpose of computing the amount to which a local educational agency is entitled under this subchapter for any fiscal year ending prior to October 1, 1983, the Commissioner shall determine the number of Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

[*See main edition for text of* (*2*); (*b*)]

(c) Demonstration projects

In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this subchapter, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) of this section for that fiscal year, for the purpose of enabling the Commissioner to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve education opportunities for Indian children, except that the Commissioner shall reserve a portion not to exceed 25 per centum of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.

(As amended Nov. 1, 1978, Pub. L. 95-561, title XI, §§ 1141(b), 1143, 92 Stat. 2328, 2329.)

Amendments

1978—Subsec. (a)(1). Pub. L. 95-561, § 1141(b), substituted "1983" for "1978".

Subsec. (c). Pub. L. 95-561, § 1143, added subsec. (c).

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Effective Date of 1974 Amendment

Pub. L. 93-380, § 631(c), provided that: "The amendments made by this section [to subsec. (a)(1) of this section and section 3385(g) of this title] shall be effective on and after July 1, 1973."

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 241bb-1, 241dd, 241ff, 1221g of this title.

§ 241bb-1. Tribal schools

Notwithstanding any other provision of law, any Indian tribe or organization which is controlled or sanctioned by an Indian tribal government and which operates any school for the children of that tribe shall be deemed to be a local educational agency for purposes of section 241bb(a) of this title if each such school, as determined by the Commissioner, operated by that tribe or organization provides its students an educational program which meets the standards established under section 2001 of title 25 for the basic education of Indian children, or is a school operated under contract by that tribe or organization in accordance with the provisions of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.].

(Pub. L. 95-561, title XI, § 1146, Nov. 1, 1978, 92 Stat. 2330.)

References in Text

The Indian Self-Determination and Education Assistance Act as amended, referred to in text, is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

Codification

Section was enacted as part of the Education Amendments of 1978, and not as part of the Indian Elementary and Secondary School Assistance Act which comprises this subchapter.

Effective Date

Section effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 241cc. Uses of Federal funds

Grants under this subchapter may be used, in accordance with applications approved under section 241dd of this title, for—

(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational or culturally related academic needs, or both, of Indian children, including pilot projects designed to test the effectiveness of plans so developed; and

(2) the establishment, maintenance, and operation of programs, including, in accordance with special regulations of the Commissioner, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment, specially designed to meet the special educational or culturally related academic needs, or both, of Indian children.

(As amended Nov. 1, 1978, Pub. L. 95-561, title XI, § 1142(b), 92 Stat. 2329.)

Amendments

1978—Pars. (1), (2). Pub. L. 95-561 inserted references to the culturally related academic needs of Indian children.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 241dd. Conditions for approval of grants

[*See main edition for text of* (*a*)]

(b) Requirement of compliance with certain provisions

An application by a local educational agency or agencies for a grant under this subchapter may be approved only if it is consistent with the applicable provisions of this subchapter and—

(1) meets the requirements set forth in subsection (a) of this section;

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) has been developed—

(i) in open consultation with parents of Indian children (including persons acting in loco parentis other than school administrators or officials), teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(ii) with the participation and approval of a committee composed of, and selected by, parents of children participating in the program (including persons acting in loco parentis other than school administrators or officials) for which assistance is sought, teachers, and, where applicable, secondary school students of which at least half the members shall be such parents;

(C) sets forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii);

(3) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable by-laws for the conduct of the program for which assistance is sought.

[*See main edition for text of* (*c*)]

(As amended Nov. 1, 1978, Pub. L. 95-561, title XI, § 1144, 92 Stat. 2329.)

AMENDMENTS

1978—Subsec. (b)(2)(B)(i). Pub. L. 95-561, § 1144(1), added "(including persons acting in loco parentis other than school administrators or officials)" following "Indian children".

Subsec. (b)(2)(B)(ii). Pub. L. 95-561, § 1144(1), added "(including persons acting in loco parentis other than school administrators or officials)" following "children participating in the program".

Subsec. (b)(2)(C). Pub. L. 95-561, § 1144(2), added ", including policies and procedures relating to the hiring of personnel," following "policies and procedures".

Subsec. (b)(3). Pub. L. 95-561, § 1144(3), added par. (3).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241cc, 241ee, 3385 of this title; title 25 section 456.

§ 241ee. Payments; limitations

(a) The Commissioner shall, subject to the provisions of section 241ff of this title, from time to time pay to each local educational agency which has had an application approved under section 241dd of this title, an amount equal to the amount estimated to be expended by such agency in carrying out activities under this application.

[*See main edition for text of* (*b*)]

(As amended Nov. 1, 1978, Pub. L. 95-561, title XI, § 1150(f), 92 Stat. 2333.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561 added "estimated to be" following "equal to the amount".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 241ff. Adjustments where necessitated by appropriations

[*See main edition for text of* (*a*)]

(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner may reallot, in such manner as he determines will best assist in advancing the purposes of this subchapter, any amount awarded to a local education agency in excess of the amount to which it is entitled under section 241bb(a) of this title and subsection (a) of this section, or any amount which the Commissioner determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.

(As amended Nov. 1, 1978, Pub. L. 95-561, title XI, § 1145, 92 Stat. 2330.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-561 substituted provisions authorizing the Commissioner to reallot amounts awarded to local education agencies in excess of the amounts to which they are entitled or amounts which the Commissioner determines will not be needed by such agencies for provisions under which the Commissioner had been authorized to adjust allocations to local education agencies only with respect to those amounts which would not be used for the period of their availability under approved applications using a program of reports and evaluation of amounts available if local agencies were to submit approvable applications.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of

Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER IV—GENERAL

§ 242. Supervision over schools

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 243. Utilization of services and facilities of other Federal agencies

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 244. Definitions

For the purposes of this chapter—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes (A) except for purposes of section 241 of this title, real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this chapter, (C) any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], section 516 of the Housing Act of 1949 [42 U.S.C. 1486], or part B of title III of the Economic Opportunity Act of 1964 [42 U.S.C. 2861 et seq.], (D) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State and (E) any property owned by a foreign government or by an international organization which by reason of such ownership is not subject to taxation by the State in which it is located or a subdivision thereof. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include any real property under the jurisdiction of the United States Postal Service and used primarily for the provision of postal services. Real property which qualifies as Federal property under clause (A) of this paragraph shall not lose such qualification because it is used for a low-rent housing project.

(2) The term "child" means any child who is within the age limits for which the applicable State provides free public education.

[*See main edition for text of* (*3*)]

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

(5) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under title I, II, or III of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2701 et seq., 2881 et seq., 2941 et seq.].

(6) For purposes of subchapter I of this chapter, the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public elementary and secondary education through grade 12.

[*See main edition for text of* (*7*)]

(8) The term "State" means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, the Northern Mariana Islands, or the Virgin Islands.

[*See main edition for text of* (*9*)]

(10) Average daily attendance shall be determined in accordance with State law, except that (A) the average daily attendance of children with respect to whom payment is to be

made under section 238 or 239 of this title shall be determined in accordance with regulations of the Commissioner, and (B) notwithstanding any other provision of this chapter, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this chapter the attendance of such child at such school shall be held and considered (i) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (ii) not to be attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract. A child shall, for the purposes of section 238 of this title, be deemed to be in attendance at a school of a local educational agency if such child is determined to be federally connected under clause (1) or (2) of section 238(a) of this title or under clause (1), (2), or (3) of section 238(b) of this title for any fiscal year and if such child is attending a school other than a school of such agency because such child is handicapped (as defined in section 1401(1) of this title) and if such agency makes a tuition payment on behalf of such child to such school for such fiscal year. Regulations promulgated by the Commissioner in accordance with clause (A) of this paragraph shall permit the conversion of average daily membership to average daily attendance for local educational agencies in States which reimburse local educational agencies based upon average daily membership and which do not require local educational agencies to keep records based on average daily attendance.

[*See main edition for text of (11) to (14)*]

(15) to (17) Repealed. Pub. L. 95-561, title I, § 101(b)(6), Nov. 1, 1978, 92 Stat. 2200.

(As amended Nov. 1, 1978, Pub. L. 95-561, title I, § 101(b), title X, §§ 1011-1014, 1031(a), 92 Stat. 2200, 2310-2312.)

References in Text

The Economic Opportunity Act of 1964, referred to in par. (1), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Part B of title III of such Act, which was classified to part B (§ 2861 et seq.) of subchapter III of chapter 34 of Title 42, The Public Health and Welfare, was repealed by Pub. L. 95-568, § 8(a)(2), Nov. 2, 1978, 92 Stat. 2428. For complete classification of the 1964 Act to the Code, see Short Title note set out under section 2701 of Title 42 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in par. (5), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 215. Title I of the 1965 Act, which was formerly classified to subchapter II (§ 241a et seq.) of chapter 13 of this title, is now classified generally to subchapter I (§ 2701 et seq.) of this title. Titles II and III of that Act, which were formerly classified to subchapters I (§ 821 et seq.) and II (§ 841 et seq.) of chapter 24 of this title, respectively, are now classified generally to subchapters II (§ 2881 et seq.) and III (§ 2941 et seq.) of chapter 47 of this title, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

Amendments

1978—Par. (1). Pub. L. 95-561, § 1011, added cl. (E) relating to property owned by a foreign government or by an international organization which by reason of such ownership is not subject to taxation by the State in which it is located or a subdivision thereof.

Par. (2). Pub. L. 95-561, § 101(b)(1), struck out ", except as used in subchapter II of this chapter," following "The term 'child' ".

Par. (4). Pub. L. 95-561, § 101(b)(2), struck out ", except that for the purposes of subchapter II of this chapter such term does not include any education provided beyond grade 12" following "applicable State".

Par. (5). Pub. L. 95-561, § 101(b)(3), substituted "title I, II, or III of the Elementary and Secondary Act of 1965" for title II of this act or title II or III of the Elementary and Secondary Education Act of 1965".

Par. (6). Pub. L. 95-561, §§ 101(b)(4), 1012, struck out the designation "(A)" at the beginning of par. (6), substituted "free public elementary and secondary education through grade 12" for "free public education", and struck out subpar. (B) which had defined the term "local educational agency" as that term was used in subchapter II of this chapter.

Par. (8). Pub. L. 95-561, §§ 101(b)(5), 1031(a), struck out "and for purposes of subchapter II of this chapter, such term includes the Trust Territory of the Pacific Islands" following "Virgin Islands" and added "the Northern Mariana Islands," following "American Samoa,".

Par. (10). Pub. L. 95-561, §§ 1013, 1014, added provisions relating to federally connected children and handicapped children and provisions relating to the conversion of average daily membership to average daily attendance.

Pars. (15) to (17). Pub. L. 95-561, § 101(b)(6), struck out pars. (15), (16), and (17), which had defined, respectively, the terms "elementary schools", "average per pupil expenditure", and "excess costs", as those terms were used in subchapter II of this chapter.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, except as otherwise specifically provided, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Amendment of par. (1) of this section by section 1011 of Pub. L. 95-561 effective with respect to fiscal year 1980 and subsequent fiscal years, see section 1032(2) of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

Section 1012 of Pub. L. 95-561 provided in part that the substitution of "free public elementary and secondary education through grade 12" for "free public education" in par. (6) of this section by section 1012 of Pub. L. 95-561 is effective Oct. 1, 1979.

Amendment of par. (8) of this section by section 1031(a) of Pub. L. 95-561, adding reference to the Northern Mariana Islands, effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

Amendment of par. (10) of this section by sections 1013 and 1014 of Pub. L. 95-561 effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

Effective Date of 1974 Amendment

Pub. L. 93-380, § 2(c), provided that:

"(1) Unless otherwise specified, each provision of this Act [see Short Title of 1974 Amendment note under section 2701 of this title] and each amendment made by this Act [see Short Title of 1974 Amendment note under section 2701 of this title] shall be effective on and after the sixtieth day after the enactment of this Act [Aug. 21, 1974].

"(2) In any case where the effective date for an amendment made by this Act [see Short Title of 1974 Amendment note under section 2701 of this title] is expressly stated to be effective after June 30, 1973, or on July 1, 1973, such amendment shall be deemed to have been enacted on June 30, 1973."

Pub. L. 93-380, § 101(b), provided that: "Except as otherwise specifically provided [repeal of former section 241d-11 and section 241d-12 of this title by section 101(a)(4)(B), effective July 1, 1975], the amendments made by subsection (a) [enacting sections 241c-1 to 241c-5, 241d-11, 241e-1, 241n, 241o, and 244(16), (17), and amending sections 241b, 241c, 241e to 241h, 241j, and 241k of this title] and the provisions of paragraph (10) of such subsection [section 241b-1 of this title] shall be effective on and after July 1, 1974."

Effective Date of 1966 Amendment

Pub. L. 89-750, § 191, provided that: "The provisions of this title [enacting sections 241m, 871 to 880, and 886 of this title and section 2000d-5 of Title 42, The Public Health and Welfare, and provisions set out as notes under this section and sections 241a and 241c of this title, amending sections 241b, 241c, 241e, 241f, 241g, 241h, 241j, 241k, 241*l*, 244, 331a, 332a, 332b, 821, 822, 823, 841, 842, 843, 844, 861, 862, 863, 864, 883, and 884 of this title, and repealing section 241d of this title] shall be effective with respect to fiscal years beginning after June 30, 1966, except as specifically provided otherwise."

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 246. State equalization plans; assistance to States

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in section 1231c-1 of this title.

CHAPTER 16—PUBLIC LIBRARY SERVICES AND CONSTRUCTION

Sec.
351f. Administrative costs [New].

Chapter Referred to in Other Sections

This chapter is referred to in title 42 section 3188a; title 48 section 1666.

§ 351. Declaration of policy

(a) It is the purpose of this chapter to assist the States in the extension and improvement of public library services in areas of the States which are without such services or in which such services are inadequate, and with public library construction, and in the improvement of such other State library services as library services for physically handicapped, institutionalized, and disadvantaged persons, in strengthening State library administrative agencies, in promoting interlibrary cooperation among all types of libraries, and in strengthening major urban resource libraries.

[*See main edition for text of* (*b*)]

(As amended Oct. 7, 1977, Pub. L. 95-123, § 4(a), 91 Stat. 1095.)

Amendments

1977—Subsec. (a). Pub. L. 95-123 inserted "and in strengthening major urban resource libraries" following "all types of libraries".

Short Title of 1977 Amendment

Section 1 of Pub. L. 95-123 provided: "That this Act [which enacted section 351f of this title and amended sections 351 to 351b, 352 to 354, and 355b of this title] may be cited as the 'Library Services and Construction Act Amendments of 1977'."

§ 351a. Definitions

The following definitions shall apply to this chapter:

[*See main edition for text of* (*1*) *to* (*13*)]

(14) "Major urban resource library" means any public library located in a city having a population of 100,000 or more individuals, as determined by the Commissioner.

(As amended Oct. 7, 1977, Pub. L. 95-123, § 4(b), 91 Stat. 1095.)

Amendments

1977—Par. (14). Pub. L. 95-123 added par. (14).

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 351b. Authorization of appropriations; availability of appropriations

(a) For the purpose of carrying out the provisions of this chapter the following sums are authorized to be appropriated:

(1) For the purpose of making grants to States for library services as provided in subchapter I of this chapter, there are authorized to be appropriated $112,000,000 for the fiscal year ending June 30, 1972, $117,600,000 for the fiscal year ending June 30, 1973, $123,500,000 for the fiscal year ending June 30, 1974, $129,675,000 for the fiscal year ending June 30, 1975, $137,150,000 for the fiscal year ending June 30, 1976, $110,000,000 for fiscal year 1978, $140,000,000 for fiscal year 1979, and $150,000,000 for fiscal year 1980 and each of the two succeeding fiscal years.

(2) For the purpose of making grants to States for public library construction, as provided in subchapter II of this chapter, there are authorized to be appropriated $80,000,000 for the fiscal year ending June 30, 1972, $84,000,000 for the fiscal year ending June 30, 1973, $88,000,000 for the fiscal year ending June 30, 1974, $92,500,000 for the fiscal year ending June 30, 1975, $97,000,000 for the fiscal year ending June 30, 1976, and such sums as may be necessary for fiscal year 1978 through fiscal year 1981, and $97,000,000 for fiscal year 1982.

(3) For the purpose of making grants to States to enable them to carry out interlibrary cooperation programs authorized by subchapter III of this chapter, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1972, $15,750,000 for the fiscal year ending June 30, 1973, $16,500,000 for the fiscal year ending June 30, 1974, $17,300,000 for the fiscal year ending June 30, 1975, $18,200,000 for the fiscal year ending June 30, 1976, $15,000,000 for fiscal year 1978, and $20,000,000 for fiscal year 1979 and each of the three succeeding fiscal years.

(4) For the purpose of making grants to States to enable them to carry out public library service programs for older persons authorized by subchapter IV of this chapter, there are authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1982.

[*See main edition for text of* (*b*)]

(As amended Oct. 7, 1977, Pub. L. 95-123, § 2, 91 Stat. 1095.)

Amendments

1977—Subsec. (a)(1). Pub. L. 95-123, § 2(a), added provisions authorizing appropriations of $110,000,000 for fiscal year 1978, $140,000,000 for fiscal year 1979, and $150,000,000 for fiscal year 1980 and each of the two succeeding fiscal years.

Subsec. (a)(2). Pub. L. 95-123, § 2(b), added provisions authorizing appropriations of such sums as may be necessary for fiscal year 1978 through fiscal year 1981, and $97,000,000 for fiscal year 1982.

Subsec. (a)(3). Pub. L. 95-123, § 2(c), added provisions authorizing appropriations of $15,000,000 for fiscal year 1978, and $20,000,000 for fiscal year 1979 and each of the three succeeding fiscal years.

Subsec. (a)(4). Pub. L. 95-123, § 2(d), substituted "for each fiscal year ending prior to October 1, 1982" for "for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, the fiscal year ending June 30, 1975, and the fiscal year ending June 30, 1976".

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 351c, 351e, 352, 353, 354, 355b, 355c, 355e-1, 355e-2, 362, 363 of this title.

§ 351c. Allotments to States; minimum allotment; population basis for distribution of remaining funds; reallotment

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 351d. State plans and programs

References in Text

Section 880b-1(a) of this title, referred to in subsec. (b)(4), was section 703(a) of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 504, which was omitted from the Code in the general revision of title VII of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268. See section 3223 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 351a, 351e, 352, 353, 354, 355a, 355c, 355e, 355e-2, 361, 363, 3223 of this title.

§ 351e. Payments to States; prerequisites; Federal share; promulgation by Commissioner of Federal share

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 351f. Administrative costs

The amount expended by any State, from an allotment received under this chapter for any fiscal year, for administrative costs in connection with any program or activity carried out by such State under this chapter shall be matched by such State from funds other than Federal funds.

(June 19, 1956, ch. 407, § 8, as added Oct. 7, 1977, Pub. L. 95-123, § 3(a), 91 Stat. 1095.)

SUBCHAPTER I—LIBRARY SERVICES

§ 352. Grants to States for public library services

The Commissioner shall carry out a program of making grants from sums appropriated pursuant to section 351b(a)(1) of this title to States which have had approved basic State plans under section 351d of this title and have submitted annual programs under section 354 of this title for the extension of public library services to areas without such services and the improvement of such services in areas in which such services are inadequate, for making library services more accessible to persons who, by reason of distance, residence, or physical handicap, or other disadvantage, are unable to receive the benefits of public library services regularly made available to the public, for adapting public library services to meet particular needs of persons within the States, for improving and strengthening library administrative agencies, and in strengthening major urban resource libraries.

(As amended Oct. 7, 1977, Pub. L. 95-123, § 4(c), 91 Stat. 1096.)

Amendments

1977—Pub. L. 95-123 inserted "and in strengthening major urban resource libraries" following "library administrative agencies".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 353. Uses of Federal funds

(a) Development of programs and projects to extend library services to physically handicapped, disadvantaged areas, etc.; expanding services of major urban resource libraries; limitation on grants

Funds appropriated pursuant to paragraph (1) of section 351b(a) of this title shall be available for grants to States from allotments under section 351c(a) of this title for the purpose of paying the Federal share of the cost of carrying out State plans submitted and approved under sections 351d and 354 of this title. Except as is provided in subsection (b) of this section, grants to States under this subchapter may be used solely—

(1) for planning for, and taking other steps leading to the development of, programs and projects designed to extend and improve library services, as provided in clause (2);

(2) for (A) extending public library services to geographical areas and groups of persons without such services and improving such services in such areas and for such groups as may have inadequate public library services; and (B) establishing, expanding, and operating programs and projects to provide (i) State institutional library services, (ii) library services to the physically handicapped, and (iii) library services for the disadvantaged in urban and rural areas; and (C) strengthening metropolitan public libraries which serve as national or regional resource centers; and

(3) for supporting and expanding library services of major urban resource libraries which, because of the value of the collections of such libraries to individual users and to other libraries, need special assistance to furnish services at a level required to meet the demands made for such services.

No grant may be made under clause (3) of this subsection unless the major urban resource library provides services to users throughout the regional area in which such library is located.

(b) Payment of costs of administering State plans, planning for and evaluation of library services, dissemination of information concerning library services, etc.; increase capacity of State library administrative agencies

Subject to such limitations and criteria as the Commissioner shall establish by regulation, grants to States under this subchapter may be used (1) to pay the cost of administering the State plans submitted and approved under this chapter (including obtaining the services of consultants), statewide planning for and evaluation of library services, dissemination of information concerning library services, and the activities of such advisory groups and panels as may be necessary to assist the State library administrative agency in carrying out its functions under this subchapter, and (2) for strengthening the capacity of State library administrative agencies for meeting the needs of the people of the States.

(c) Reservation of allotments

(1) Subject to such criteria as the Commissioner shall establish by regulation, in any fiscal year in which sums appropriated pursuant to paragraph (1) of section 351b(a) of this title exceed $60,000,000, each State which is subject to the provisions of this subsection shall reserve that portion of the allotment of each State attributable to the amount in excess of $60,000,000 in that fiscal year in the manner required in paragraph (2).

(2)(A) In each State having one or more cities with a population of 100,000 or more individuals, as determined by the Commissioner, and in which the aggregate population of such cities does not exceed 50 percent of the total population of the State, the portion of the excess amount specified in paragraph (1) shall be reserved for the purposes described in subsection (a)(3) of this section in accordance with clause (2) of section 354 of this title in an amount which bears the same ratio to the total of such excess amount as the aggregate population of such cities bears to the total population of such State.

(B) In each State having one or more cities with a population of 100,000 or more individuals, as determined by the Commissioner, and in which the aggregate population of such cities exceeds 50 percent of the total population of the State, 50 percent of the excess amount specified in paragraph (1) shall be reserved for the purposes described in subsection (a)(3) of this section in accordance with clause (2) of section 354 of this title.

(C) Any State which does not include any city with a population of 100,000 or more individuals, as determined by the Commissioner, shall not be subject to the provisions of this subsection.

(As amended Oct. 7, 1977, Pub. L. 95-123, §§ 3(b), 4(d), (e), 91 Stat. 1095, 1096.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-123, § 4(d), added cl. (3) and material following cl. (3).

Subsec. (b). Pub. L. 95-123, § 3(b), inserted "the provisions of section 351f of this title and" following "Subject to".

Subsec. (c). Pub. L. 95-123, § 4(e), added subsec. (c).

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 354. Annual State program for library services; submission; contents; limitation on reduction of funds

Any State desiring to receive a grant from its allotment for the purposes of this subchapter for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 351d of this title, submit for that fiscal year an annual program for library services. Such program shall be submitted at such time, in such form, and contain such information as the Commissioner may require by regulation, and shall—

(1) set forth a program, subject to clause (2) of this section, for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (1) of section 351b(a) of this title for that year will be used, consistent with its long-range program, solely for the purposes set forth in section 353 of this title;

(2) set forth a program for the year submitted under which the amount reserved by the State under section 353(c) of this title, if applicable, will be used for the purposes set forth in clause (3) of section 353(a) of this title;

(3) set forth the criteria used in allocating such funds among such purposes, which criteria shall insure that the State will expend from Federal, State, and local sources an amount not less than the amount expended by the State from such sources for State institutional library services, and library services to the physically handicapped during the second fiscal year preceding the fiscal year for which the determination is made;

(4) include such information, policies, and procedures as will assure that the activities to be carried out during that year are consistent with the long-range program; and

(5) include an extension of the long-range program, taking into consideration the results of evaluations.

No State shall, in carrying out the provisions of clause (2) of this section, reduce the amount paid to an urban resource library below the amount that such library received in the year preceding the year for which the determination is made under such clause (2).

(As amended Oct. 7, 1977, Pub. L. 95-123, §§ 4(f), 5, 91 Stat. 1096, 1097.)

AMENDMENTS

1977—Pub. L. 95-123 in cl. (1) inserted ", subject to clause (2) of this section," following "set forth a program", added cl. (2), redesignated former cl. (2) as (3) and, as so redesignated, substituted "the second fiscal year preceding the fiscal year for which the determination is made" for "the fiscal year ending June 30, 1971", redesignated former cls. (3) and (4) as (4) and (5), and added material following cl. (5).

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER II—PUBLIC LIBRARY CONSTRUCTION

§ 355a. Grants to States for public library construction

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 355b. Payment of Federal share; uses of Federal funds

Funds appropriated pursuant to paragraph (2) of section 351b(a) of this title shall be available for grants to States from allotments under section 351c(a) of this title for the purpose of paying the Federal share of the cost of construction projects carried under State plans. Such grants shall be used solely for the construction of public libraries, for the remodeling of public libraries necessary to meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 [42 U.S.C. 4151 et seq.], and for remodeling designed to conserve energy in the operation of public libraries under approved State plans.

(As amended Oct. 7, 1977, Pub. L. 95-123, § 6, 91 Stat. 1097.)

REFERENCES IN TEXT

The Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, referred to in text, is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§ 4151 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4151 of Title 42 and Tables.

AMENDMENTS

1977—Pub. L. 95-123 inserted ", for the remodeling of public libraries necessary to meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, and for remodeling designed to conserve energy in the operation of public libraries" following "construction of public libraries".

SUBCHAPTER III—INTERLIBRARY COOPERATION

§ 355e. Grants to States for interlibrary cooperation programs

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 355e-2. Annual State program for interlibrary cooperation; submission; contents

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER IV—OLDER READERS SERVICES

§ 361. Grants to States for older readers services

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 363, 364

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 17—NATIONAL DEFENSE EDUCATION PROGRAM

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1089, 3441 of this title; title 42 section 3188a.

SUBCHAPTER I—GENERAL PROVISIONS

§ 403. Definitions

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER II—LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER LEARNING

§§ 421 to 423

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 424. Conditions of agreements; payment of administrative expenses

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 403 of this title; title 42 sections 294, 295h-3d, 297a.

§ 425. Term of loans

REFERENCES IN TEXT

Subchapter II of chapter 13 of this title, referred to in subsec. (b)(3), was in the original "title II of Public Law 874, Eighty-first Congress, as amended", known as title I of the Elementary and Secondary Education Act of 1965, which Act is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152. Title I was formerly classified to subchapter II (§ 241a et seq.) of chapter 13 of this title, and is now classified generally to subchapter I (§ 2701 et seq.) of chapter 47 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

Section 241c(a)(2) of this title, referred to in subsec. (b)(3), was repealed by Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 427 to 429

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER III—FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 403, 584, 3082 of this title.

PART A—GRANTS TO STATES

§ 441. Authorization of appropriations

There are authorized to be appropriated $70,000,000 for the fiscal year ending June 30, 1959, and for each of the five succeeding fiscal years, $90,000,000 for the fiscal year ending June 30, 1965, $100,000,000 for the fiscal year ending June 30, 1966, and for the succeeding fiscal year. $110,000,000 for each of the fiscal years ending June 30, 1968, and June 30, 1969, $120,500,000 for the fiscal year ending June 30, 1970, and $130,500,000 for each of the fiscal years ending prior to September 30, 1979, for (1) making payments to State educational agencies under this part for the acquisition of equipment and for minor remodeling, described in paragraph (1) of section 443(a) of this title, and (2) making loans authorized in section 445 of this title. There are also authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1959, and for each of the five succeeding fiscal years, and $10,000,000 for each of the succeeding fiscal years ending prior to October 1, 1978, for making payments to State educational agencies under this part to carry out the programs described in paragraph (5) of section 443(a) of this title. Notwithstanding the preceding two sentences, no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part B of title IV of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 3101 et seq.].

(As amended Pub. L. 95-112, § 4, Sept. 24, 1977, 91 Stat. 912.)

REFERENCE IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152. Part B of title IV of the 1965 Act, which was formerly classified to section 1821 of this title, is now classified to Part B (§ 3101 et seq.) of subchapter IV of chapter 27 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

AMENDMENTS

1977—Pub. L. 95-112 substituted "September 30, 1979" for "September 30, 1978".

§§ 442 to 444

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 445. Loans to nonprofit private schools

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 441, 442, 3082 of this title.

PART B—GRANTS TO LOCAL EDUCATIONAL AGENCIES

§§ 452 to 455

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER IV—NATIONAL DEFENSE FELLOWSHIPS

§§ 462 to 465

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER VI—FOREIGN STUDIES AND LANGUAGE DEVELOPMENT

PART A—CENTERS AND RESEARCH AND STUDIES

§§ 511 to 512a

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 513. Authorization of appropriations

There are authorized to be appropriated $8,000,000 for the fiscal year ending June 30, 1964, $13,000,000 for the fiscal year ending June 30, 1965, $14,000,000 for the fiscal year ending June 30, 1966, $16,000,000 for the fiscal year ending June 30, 1967, $18,000,000 for the fiscal year ending June 30, 1968, $16,050,000 for the fiscal year ending June 30, 1969, $30,000,000 for the fiscal year ending June 30, 1970, $38,500,000 for each of the fiscal years ending June 30, 1971, and June 30, 1972, $50,000,000 for the fiscal year ending June 30, 1973, and $75,000,000 for each fiscal year ending prior to October 1, 1980, to carry out the provisions of this subchapter, except that no funds shall be made available in any fiscal year for carrying out programs under section 512a of this title, until at least $15,000,000 has been made available in such fiscal year for carrying out the provisions of sections 511 and 512 of this title.

(As amended Pub. L. 95-43, § 1(c), June 15, 1977, 91 Stat. 219; Pub. L. 96-49, § 15, Aug. 13, 1979, 93 Stat. 354.)

AMENDMENTS

1979—Pub. L. 96-49 extended authorizations to each fiscal year ending prior to Oct. 1, 1980, from the fiscal year ending prior to Oct. 1, 1979.

1977—Pub. L. 95-43 extended authorizations to each fiscal year ending prior to Oct. 1, 1979, from the fiscal year ending prior to Oct. 1, 1977.

SUBCHAPTER VII—RESEARCH AND EXPERIMENTATION IN MORE EFFECTIVE UTILIZATION OF TELEVISION, RADIO, MOTION PICTURES, AND RELATED MEDIA FOR EDUCATIONAL PURPOSES

PART A—RESEARCH AND EXPERIMENTATION

§§ 541, 542

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART B—DISSEMINATION OF INFORMATION ON NEW EDUCATIONAL MEDIA

§ 551. Functions of Commissioner

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART C—GENERAL PROVISIONS

§§ 561, 562

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

§ 581. Administration

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of

Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 584, 585

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 588. Allotments to territories and possessions

References in Text

The Canal Zone, referred to in par. (A), is deemed to refer to the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, see section 3602(b) of Title 22, Foreign Relations and Intercourse

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER IX—INSTITUTES

Part I—General

§ 591. Authorization of appropriations

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Part II—International Affairs

§§ 601, 602

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 19—SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

§ 632. Annual apportionment of funds; use of remainder

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 633. Dates for filing applications; priorities

The Commissioner shall from time to time set dates by which applications for payments under this chapter with respect to construction projects must be filed, except that the last such date with respect to applications for payments on account of children referred to in paragraphs (2) or (3) of section 635(a) of this title shall be not later than September 30, 1983. The Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under this chapter and remaining available on any such date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this chapter have not already been obligated). Only applications meeting the conditions for approval under this chapter (other than section 636(b)(2)(C) of this title) shall be considered applications for purposes of the preceding sentence. Such order of priority shall provide that applications for payments based upon increases in the number of children residing on, or residing with a parent employed on, property which is part of a low-rent housing project assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] shall not be approved for any fiscal year until all other applications under paragraphs (2) and (3) of subsection (a) of section 635 of this title have been approved for that fiscal year.

(As amended Nov. 1, 1978, Pub. L. 95-561, title X, § 1021(a), 92 Stat. 2311.)

Amendments

1978—Pub. L. 95-561 substituted "1983" for "1978".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 634. Federal share of cost for any project

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 635. Limitation on total payments to local agencies

(a) Determination by categories of Federally-connected children

Subject to the limitations in subsections (c) and (d) of this section, the total of the payments to a local educational agency under this chapter may not exceed the sum of the following:

(1) the estimated increase, since the base year, in—

(A) the number of children determined with respect to such agency under section

238(a)(2) of this title, multiplied by 100 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated;

(B) the number of children determined with respect to such agency under section 238(a)(1) of this title multiplied by 90 per centum of such cost;

(2) the estimated increase, since the base year, in—

(A) the number of children determined with respect to such agency under section 238(b)(3) of this title multiplied by 50 per centum of such cost;

(B) the number of children determined with respect to such agency under section 238(b)(1) of this title multiplied by 45 per centum of such cost; and

(C) the number of children determined with respect to such agency under section 238(b)(2) of this title multiplied by 40 per centum of such cost;

[*See main edition for text of* (3) *and* (4)]

In computing for any local educational agency the number of children in an increase under paragraph (1), (2), or (3), the estimated number of children described in such paragraph who will be in the membership of the schools of such agency at the close of the increase period shall be compared with the estimated number of such children in the average daily membership of the schools of such agency during the base year.

[*See main edition for text of* (*b*) *to* (*f*)]

(As amended Nov. 1, 1978, Pub. L. 95-561, title X, § 1022, 92 Stat. 2312.)

CODIFICATION

Section 238(a)(1) of this title, referred to in subsec. (a)(1)(B), in the original read "section 3(a)(1) and such Act" but was probably intended to be "section 3(a)(1) of such Act", meaning act Sept. 30, 1950, ch. 1124, § 3(a)(1), 64 Stat. 1102.

AMENDMENTS

1978—Subsec. (a)(1), (2). Pub. L. 95-561 changed the provisions relating to the method of determining the number of children so as to conform the method of counting to that used in section 238 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 636 to 639

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 640. Children for whom local agencies are unable to provide education

(a) Provision for minimum school facilities

In the case of children who it is estimated by the Commissioner in any fiscal year will reside on Federal property at the end of the next fiscal year—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make arrangements for constructing, leasing, renovating, remodeling, or rehabilitating or otherwise providing the minimum school facilities necessary for the education of such children. In any case in which the Commissioner makes arrangements under this section for constructing, leasing, renovating, remodeling, or rehabilitating or otherwise providing minimum school facilities situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands, he may also include minimum school facilities necessary for the education of children residing with a parent employed by the United States though not residing on Federal property, but only if the Commissioner determines, after consultation with the appropriate State educational agency, (1) that the construction or provision of such facilities is appropriate to carry out the purposes of this chapter, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) that English is not the primary language of instruction in schools in the locality. Such arrangements may also be made to provide, on a temporary basis, minimum school facilities for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable school facilities provided under this section shall be comparable to minimum school facilities provided for children in comparable communities in the State. This section shall not apply (A) to children who reside on Federal property under the control of the Atomic Energy Commission, and (B) to Indian children attending federally operated Indian schools. Whenever it is necessary for the Commissioner to provide school facilities for children residing on Federal property under this section, the membership of such children may not be included in computing under section 635 of this title the maximum on the total of the payments for any local educational agency.

[*See main edition for text of* (*b*) *and* (*c*)]

(As amended Nov. 1, 1978, Pub. L. 95-561, title X, §§ 1023, 1031(b)(1), 92 Stat. 2312.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561 added ", leasing, renovating, remodeling, or rehabilitating" following "arrangements for constructing" and following "this section for constructing" and added "American Samoa, the Northern Mariana Islands," following "Guam,".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 641, 642

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 643. Information to Commissioner; transfer and availability of appropriations

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 644. Assistance in other Federally-affected areas

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 645. Definitions

For the purposes of this chapter—

[*See main edition for text of* (*1*) *to* (*12*)]

(13) The term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Northern Mariana Islands, the Virgin Islands, or Wake Island.

[*See main edition for text of* (*14*)]

(15) The term "base year" means the third or fourth regular school year preceding the fiscal year in which an application was filed under this chapter as may be designated in the application, except that in the case of an application based on children referred to in paragraph (2) or (3) of section 635(a) of this title, the base year shall in no event be later than the regular school year 1978–1979; and

[*See main edition for text of* (*16*)]

(As amended Nov. 1, 1978, Pub. L. 95-561, title X, §§ 1021(b), 1031(b)(2), 92 Stat. 2312.)

AMENDMENTS

1978—Par. (13). Pub. L. 95-561, § 1031(b)(2), added "the Northern Mariana Islands," following "American Samoa,".

Par. (15). Pub. L. 95-561, § 1021(b), substituted "1978–1979" for "1973–1974".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 646. Assistance in cases of certain disasters

(a) Eligibility requirements; maximum amount; form, terms and conditions

In any case in which—

(1)(A) the Secretary of Housing and Urban Development determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which, after August 30, 1965, and prior to October 1, 1983, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to sections 5122(2) and 5141 of title 42, is or threatens to be of sufficient severity or magnitude to warrant disaster assistance by the Federal Government; or

[*See main edition for text of* (*B*), (*2*) *to* (*6*)]

the Commissioner may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance, plus the amount which he determines to be available from State, local, and other Federal sources (including funds available under other provisions of this chapter), and from the proceeds of insurance, may not exceed the cost of construction incident to the restoration or replacement of the school facilities destroyed or damaged as a result of the disaster. For the purpose of the preceding sentence, the phrase "cost of construction incident to the restoration or replacement of the school facilities" includes such additional amounts as the Commissioner may approve in order to assure that the facilities, as restored or replaced, will afford appropriate protection against personal injuries resulting from a disaster.

[*See main edition for text of* (*b*)]

(c) Applications; priority of approvals; conditions precedent; consultation with agencies; prompt consideration for applications

No payment may be made to any local educational agency under subsection (a) of this section except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 636(b)(1) of this title. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications. No payment may be made under subsection (a) of this section unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency. In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.

[*See main edition for text of* (*d*) *and* (*e*)]

(As amended Nov. 1, 1978, Pub. L. 95-561, title X, §§ 1010(b), 1021(a), 1024, 92 Stat. 2310-2312.)

Amendments

1978—Subsec. (a). Pub. L. 95-561, §§ 1021(a), 1024, substituted "1983" for "1978" in par. (1)(A) and struck out, in provisions following par. (6), requirement that in all cases determined pursuant to clause (1)(B) of this subsection and in any other case deemed appropriate by the Commissioner, assistance be in the form of repayable advances subject to such terms and conditions as the Commissioner determined to be in the public interest.

Subsec. (c). Pub. L. 95-561, § 1010(b), added provisions for the prompt consideration of applications.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective with respect to the 1979 fiscal year and subsequent fiscal years, see section 1032 of Pub. L. 95-561, set out as an Effective Date of 1978 Amendment note under section 237 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Delegation of Functions

Functions of the Director of the Office of Emergency Preparedness under this section, previously transferred to the President, were delegated to the Director of the Federal Emergency Management Agency by section 4-106 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, set out as a note under section 2251 of the Appendix to Title 50, War and National Defense.

§ 647. Determination of payment not affected by announcement of decrease in or cessation of Federal activities in certain areas

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 20A—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

Sec.
686. Purchases through the General Services Administration [New].

§§ 682 to 684

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 686. Purchases through the General Services Administration

On and after September 8, 1978, Gallaudet College and the National Technical Institute for the Deaf are authorized to make purchases through the General Services Administration.

(Pub. L. 95-355, title I, § 100, Sept. 8, 1978, 92 Stat. 531.)

Codification

Section is from the Second Supplemental Appropriations Act, 1978, and not the National Technical Institute for the Deaf Act, comprising this chapter, and contained additional provisions relating to purchases by the American Printing House for the Blind, and Howard University, which are set out as sections 106 and 130 of this title, respectively.

CHAPTER 24—GRANTS FOR EDUCATIONAL MATERIALS, FACILITIES AND SERVICES, AND STRENGTHENING OF EDUCATIONAL AGENCIES

CODIFICATION

Titles I to IX of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended, which were classified to this chapter (§ 821 et seq.), subchapter II (§ 241a et seq.) of chapter 13, and subchapter I (§ 1801 et seq.) of chapter 40 of this title, were amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152, known as the Education Amendments of 1978, which is classified generally to chapter 47 (§ 2701 et seq.) of this title.

Former sections 821 to 900a-5 of this title were either omitted or transferred as set forth in the following table:

Former Sections	*Present Sections*
821	3082
822	3083
823	3084
824	3085
825	3086
826	3086
827	3086
841	Omitted
842	Omitted
843	Omitted
844	Omitted
844a	Omitted
844b	Omitted
845	Omitted
846	Omitted
847	Omitted
847a	Omitted
848	1232b
861	3150
862	3150
863	3161
864	3162
865	2943
866	3163
866a	Omitted
866b	3161
866c	3162
866d	Omitted
867	2833
867a	2833
867b	Omitted
867c	Omitted
868	3171
869	3148
869a	2851
869b	Omitted
870	Omitted
871	1411(a)
872	Omitted
873(a)(1)	1411(e), (f)
873(a)(2) to (c)	Omitted
874(a)	1413(a)(1), (2)
874(b)	1413(a)(4)
874(c)	1413(a)(6)
874(d)	1413(a)(9)
874(e)	1413(a)(11)
874(f)	Omitted
874(g)	1413(a)(7)
874(h)	1413(a)(10)
874(i)	Omitted
874(j)	Omitted
874(k)	1413(a)(3)
875	1226a-1, 1420
876(a), (b)	1413(c)(1), (2)
877	1416(b)
877a(a)	1426
877a(b), (c)	1421(a), (b)
877a(d)	1226a-1
877b(a) to (d)	1422(a) to (d)
877b(e)	1424(a)
877b(f)	1401(4)
877b(g)	1404(b)
877b(h)	Omitted
877b(i)	1226a-1
877b(j)	1426
877c(a)	1433
877c(b)	1436
878(a)	1233b(1), 1403(a)
878(b)	1403(b)
878(c), (d)	1233c, 1233d
879	1402
880	1232b
880a	1401(1)
880b	3222
880b-1	3223
880b-2	3251
880b-3	3231
880b-3a	3232
880b-4	3251
880b-5	3242
880b-6	Omitted
880b-7	3231
880b-8	3232
880b-9	3233
880b-10	3241
880b-11	3242
880b-12	3251
880b-13	3252
881	3381
882	Omitted
883	3382
884	3383
885	3384
886	Omitted
887	Omitted
887a	Omitted
887b	Omitted
887c	3385
887c-1	3385a
887c-2	3385b
887d	Omitted
887e	3386
888	Omitted
900	3361
900a	3362
900a-1	3363
900a-2	3364
900a-3	3365
900a-4	3366
900a-5	3367

SUBCHAPTER I—SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

§§ 821 to 827. Omitted

CODIFICATION

Sections were omitted from the Code in the general revision of title II of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 36, by Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2201.

Section 821, Pub. L. 89-10, title II, § 201, Apr. 11, 1965, 79 Stat. 36; Pub. L. 89-750, title I, § 121, Nov. 3, 1966, 80 Stat. 1199; Pub. L. 90-247, title III, § 301(b), Jan. 2, 1968, 81 Stat. 813; Pub. L. 91-230, title I, § 121(a), Apr. 13, 1970, 84 Stat. 130; Pub. L. 93-380, title I, § 102(a), Aug. 21, 1974, 88 Stat. 501; Pub. L. 95-112, § 2(b)(1), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for grants for the aquisition of books and school library resources for fiscal years ending prior to Oct. 1, 1979. See section 3082 of this title.

Section 822, Pub. L. 89-10, title II, § 202, Apr. 11, 1965, 79 Stat. 36; Pub. L. 89-750, title I, § 122, Nov. 3, 1966, 80 Stat. 1199; Pub. L. 90-247, title I, § 121, Jan. 2, 1968, 81 Stat. 788; Pub. L. 91-230, title I, § 121(b), Apr. 13, 1970, 84 Stat. 130; Pub. L. 92-318, title IV, § 421(b)(1)(A), June 23, 1972, 86 Stat. 341; Pub. L. 93-380, title I, § 102(b), title VIII, § 843(a), Aug. 21, 1974, 88 Stat. 502, 611, authorized additional appropriations for the territories and provided for the allotment of funds to States. See section 3083 of this title.

Section 823, Pub. L. 89-10, title II, § 203, Apr. 11, 1965, 79 Stat. 37; Pub. L. 89-750, title I, § 123, Nov. 3, 1966, 80 Stat. 1200; Pub. L. 92-318, title V, § 509(a)(1), June 23, 1972, 86 Stat. 353, set out the requirements for State plans. See section 3084 of this title.

Section 824, Pub. L. 89-10, title II, § 204, Apr. 11, 1965, 79 Stat. 38; Pub. L. 91-230, title I, § 121(c), Apr. 13, 1970, 84 Stat. 130; Pub. L. 94-482, title V, § 501(c), Oct. 12, 1976, 90 Stat. 2236; Pub. L. 95-112, § 2(b)(2), Sept. 24, 1977, 91 Stat. 911, made provision for payments to States. See section 3085 of this title.

Section 825, Pub. L. 89-10, title II, § 205, Apr. 11, 1965, 79 Stat. 38, provided for public control of furnished materials. See section 3086 of this title.

Section 826, Pub. L. 89-10, title II, § 206, Apr. 11, 1965, 79 Stat. 39, related to the administration of State plans. See section 3086 of this title.

Section 827, Pub. L. 89-10, title II, § 207, Apr. 11, 1965, 79 Stat. 39, related to judicial review of the Commissioner's final action. See section 3086 of this title.

SUBCHAPTER II—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES

§ 841. Omitted

Codification

Section 841, Pub. L. 89-10, title III, § 301, Apr. 11, 1965, 79 Stat. 39; Pub. L. 89-750, title I, § 131, Nov. 3, 1966, 80 Stat. 1201; Pub. L. 90-247, title I, § 131, Jan. 2, 1968, 81 Stat. 788; Pub. L. 91-230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 130; Pub. L. 93-380, title I, § 103(a), Aug. 21, 1974, 88 Stat. 502; Pub. L. 94-482, title V, § 501(a)(2), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 95-112, § 2(c)(1), Sept. 24, 1977, 91 Stat. 911, which authorized appropriations for the making of grants for supplementary educational centers and services for fiscal years ending prior to Oct. 1, 1979, was omitted from the Code in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95-561, title III, § 301, Nov. 1, 1978, 92 Stat. 2210.

Appropriation under National Defense Provisions as Appropriation under this Section

Pub. L. 91-230, title I, § 131(c), Apr. 13, 1970, 84 Stat. 141, which provided that any appropriation for the purposes of title V of the National Defense Education Act of 1958, section 481 et seq. of this title, for any fiscal year ending after June 30, 1970, was to be deemed to have been appropriated pursuant to this section, was omitted from the Code as obsolete in view of the omission of section 481 et seq. of this title as superseded by this subchapter and in view of the omission of this section in the general revision of the Elementary and Secondary Education Act of 1965. See Codification note above.

§§ 842 to 844a. Omitted

Codification

Sections were omitted from the Code in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95-561, title III, § 301, Nov. 1, 1978, 92 Stat. 2210.

Section 842, Pub. L. 89-10, title III, § 302, Apr. 11, 1965, 79 Stat. 40; Pub. L. 89-750, title I, § 132, Nov. 3, 1966, 80 Stat. 1201; Pub. L. 90-247, title I, § 131, Jan. 2, 1968, 81 Stat. 789; Pub. L. 91-230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 131; Pub. L. 92-318, title IV, § 421(b)(1)(B), June 23, 1972, 86 Stat. 341; Pub. L. 93-380, title I, § 103(b), title VIII, § 843(a), Aug. 21, 1974, 88 Stat. 502, 611, provided for the allotment of appropriated funds for supplementary educational centers and services.

Section 843, Pub. L. 89-10, title III, § 303, Apr. 11, 1965, 79 Stat. 40; Pub. L. 89-750, title I, § 152(b), Nov. 3, 1966, 80 Stat. 1203; Pub. L. 90-247, title I, § 131, Jan. 2, 1968, 81 Stat. 790; Pub. L. 91-230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 132; Pub. L. 92-318, title V, § 509(a)(2), June 23, 1972, 86 Stat. 353, related to the uses of Federal funds for supplementary educational centers and services.

Section 844, Pub. L. 89-10, title III, § 304, Apr. 11, 1965, 79 Stat. 41; Pub. L. 89-750, title I, §§ 133, 134, Nov. 3, 1966, 80 Stat. 1201, 1202; Pub. L. 90-247, title I, § 131, Jan. 2, 1968, 81 Stat. 791; Pub. L. 91-230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 133, related to the content and form of applications for grant funds for supplementary educational centers and services.

Section 844a, Pub. L. 89-10, title III, § 305, as added Pub. L. 90-247, title I, § 131, Jan. 2, 1968, 81 Stat. 792, and amended Pub. L. 91-230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 135; Pub. L. 93-380, title I, § 103(c), title IV, § 402(c)(2)(i), Aug. 21, 1974, 88 Stat. 502, 546; Pub. L. 94-273, § 3(8), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95-112, § 2(c)(2), Sept. 24, 1977, 91 Stat. 911, set out the requisites for State plans for supplementary educational centers and services.

§ 845. Omitted

Codification

Section, Pub. L. 89-10, title III, § 307, formerly § 305, Apr. 11, 1965, 79 Stat. 43, renumbered and amended Pub. L. 90-247, title I, § 131, Jan. 2, 1968, 81 Stat. 796; Pub. L. 91-230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 139; Pub. L. 93-380, title I, § 103(d), title IV, § 402(c)(2)(iii), title VIII, § 843(a)(2), Aug. 21, 1974, 88 Stat. 502, 546, 611; Pub. L. 94-482, title III, § 323(a)(2), Oct. 12, 1976, 90 Stat. 2217, which related to the payments to States to carry out plans for supplementary educational centers and services, was omitted from the Code in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95-561, title III, § 301, Nov. 1, 1978, 92 Stat. 2210.

§§ 847, 847a. Omitted

Codification

Sections were omitted from the Code in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95-561, title III, § 301, Nov. 1, 1978, 92 Stat. 2210.

Section 847, Pub. L. 89-10, title III, § 308, formerly § 307, Apr. 11, 1965, 79 Stat. 44, renumbered Pub. L. 90-247, title I, § 131, Jan. 2, 1968, 81 Stat. 797, and amended Pub. L. 91-230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 140, related to the recovery of payments to supplementary educational centers and services.

Section 847a, Pub. L. 89-10, title III, § 309, as added Pub. L. 90-247, title I, § 131, Jan. 2, 1968, 81 Stat. 797, and amended Pub. L. 91-230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 140; Pub. L. 93-380, title VIII, § 845(b), Aug. 21, 1974, 88 Stat. 612; Pub. L. 94-273, § 3(8), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95-112, § 2(c)(3), Sept. 24, 1977, 91 Stat. 911, provided for the establishment of a National Advisory Council on Supplementary Centers and Services.

SUBCHAPTER III—STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES

Part A—Grants to Strengthen State Departments of Education

§§ 861 to 865. Omitted

Codification

Sections were omitted from the Code in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240.

Section 861, Pub. L. 89-10, title V, § 501, Apr. 11, 1965, 79 Stat. 47; Pub. L. 89-750, title I, § 151, Nov. 3, 1966, 80 Stat. 1203; Pub. L. 90-247, title I, § 141, Jan. 2, 1968, 81 Stat. 799; Pub. L. 91-230, title I, §§ 141, 143(a)(4)(B), Apr. 13, 1970, 84 Stat. 141, 142; Pub. L. 93-380, title I, § 104(a), Aug. 21, 1974, 88 Stat. 503; Pub. L. 95-112, § 2(e)(1), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for grants to strengthen State departments of education for fiscal years ending prior to Oct. 1, 1979. See section 3150 of this title.

Section 862, Pub. L. 89-10, title V, § 502, Apr. 11, 1965, 79 Stat. 48; Pub. L. 89-750, title I, § 152(c), Nov. 3, 1966, 80 Stat. 1203; Pub. L. 90-247, title I, §§ 142(a), 143, 145(b)(1), (2), Jan. 2, 1968, 81 Stat. 799, 800; Pub. L. 91-230, title I, § 143(a)(4)(B), Apr. 13, 1970, 84 Stat. 142; Pub. L. 93-380, title VIII, § 843(a)(2), (3), Aug. 21, 1974, 88 Stat. 611, related to the apportionment of grant funds among States. See section 3150 of this title.

Section 863, Pub. L. 89-10, title V, § 503, Apr. 11, 1965, 79 Stat. 49; Pub. L. 89-750, title I, §§ 152(a), 154, Nov. 3, 1966, 80 Stat. 1203, 1204; Pub. L. 90-247, title I, §§ 144, 145(a), Jan. 2, 1968, 81 Stat. 799, 800; Pub. L. 91-230, title I, §§ 142(a), 143(a)(4)(C), Apr. 13, 1970, 84 Stat. 142; Pub. L. 92-318, title V, § 509(a)(3), June 23, 1972, 86 Stat. 353, related to programs and activities covered. See section 3161 of this title.

Section 864, Pub. L. 89-10, title V, § 504, Apr. 11, 1965, 79 Stat. 50; Pub. L. 89-750, title I, § 152(d), Nov. 3, 1966, 80 Stat. 1203; Pub. L. 91-230, title I, § 143(a)(4)(B), Apr. 13, 1970, 84 Stat. 142, related to the findings prerequisite to the approval of applications for apportioned funds. See section 3162 of this title.

Section 865, Pub. L. 89-10, title V, § 505, Apr. 11, 1965, 79 Stat. 51; Pub. L. 90-247, title I, §§ 145(b)(3), 146, Jan. 2, 1968, 81 Stat. 800, related to special project grants. See section 2943 of this title.

PART B—LOCAL EDUCATIONAL AGENCIES

§§ 866 to 866d. Omitted

CODIFICATION

Sections were omitted from the Code in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240.

Section 866, Pub. L. 89-10, title V, § 521, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 142, and amended Pub. L. 93-380, title I, § 104(b), Aug. 21, 1974, 88 Stat. 503; Pub. L. 95-112, § 2(e)(2), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for grants to local educational agencies for fiscal years ending prior to Oct. 1, 1979. See section 3163 of this title.

Section 866a, Pub. L. 89-10, title V, § 522, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 143, and amended Pub. L. 93-380, title VIII, § 843(a)(2), (3), Aug. 21, 1974, 88 Stat. 611, related to the apportionment of grant funds among States.

Section 866b, Pub. L. 89-10, title V, § 523, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 143, related to grants from apportioned funds and to the programs and activities covered. See section 3161 of this title.

Section 866c, Pub. L. 89-10, title V, § 524, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 144, related to the approval of applications by the Commissioner. See section 3162 of this title.

Section 866d, Pub. L. 89-10, title V, § 525, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 144, related to the approval of applications by State educational agencies.

PART C—COMPREHENSIVE EDUCATIONAL PLANNING AND EVALUATION

§§ 867 to 867c. Omitted

CODIFICATION

Sections were omitted from the Code in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240.

Section 867, Pub. L. 89-10, title V, § 531, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 145, and amended Pub. L. 93-380, title I, § 104(c), title VIII, § 843(a)(2), (3), Aug. 21, 1974, 88 Stat. 503, 611; Pub. L. 95-112, § 2(e)(3), Sept. 24, 1977, 91 Stat. 911, authorized the appropriation of funds for comprehensive planning and evaluation grants for fiscal years ending prior to Oct. 1, 1979. See section 2833 of this title.

Section 867a, Pub. L. 89-10, title V, § 532, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 146, related to comprehensive planning and evaluation grants and to the establishment and functioning of State planning and evaluation agencies. See section 2833 of this title.

Section 867b, Pub. L. 89-10, title V, § 533, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 147, related to the form and content of grant applications.

Section 867c, Pub. L. 89-10, title V, § 534, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 148, related to the required annual reports.

PART D—COUNCILS ON QUALITY IN EDUCATION

§ 868. Omitted

CODIFICATION

Section, Pub. L. 89-10, title V, § 541, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 148, and amended Pub. L. 95-112, § 2(e)(4), Sept. 24, 1977, 91 Stat. 912, which provided for the establishment of a National Council on Quality in Education and State advisory councils, was omitted from the Code in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240. See section 3171 of this title.

A prior section 868, Pub. L. 89-10, title V, § 508, Apr. 11, 1965, 79 Stat. 54, which provided for administration of State plan, was repealed by Pub. L. 91-230, title I, § 143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142, and was covered by section 869 of this title.

Provisions similar to those comprising subsecs. (a)(1), (2)(A), (E), and (a)(3) of this section were contained in section 510(a), (b), (d) of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 54 (formerly classified to section 870(a), (b), (d) of this title), prior to repeal of section 870 and general amendment of title V by section 143(a)(4)(A) and (D) of Pub. L. 91-230, respectively.

PART E—GENERAL PROVISIONS

§§ 869, 869a. Omitted

CODIFICATION

Section 869, Pub. L. 89-10, title V, § 551, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 150, which to the administration of plans, to hearings, and to the steps following a failure to comply with the provisions related of this subchapter, was omitted from the Code in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240. See section 3148 of this title.

A prior section 869, Pub. L. 89-10, title V, § 509, Apr. 11, 1965, 79 Stat. 54, which provided for judicial review, was repealed by Pub. L. 91-230, title I, § 143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142, and was covered by section 869a of this title.

Provisions similar to those comprising this section were contained in section 508 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 54 (formerly classified to section 868 of this title), prior to repeal of section 868 and general amendment of title V by section 143(a)(4)(A) and (D) of Pub. L. 91-230, respectively.

Section 869a, Pub. L. 89-10, title V, § 552, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84

Stat. 151, which provided for judicial review of Commissioner's decision concerning approval of application or withholding of payments, was omitted from the Code in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240. See section 2851 of this title.

Provisions similar to those comprising this section were contained in section 509 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 54 (formerly classified to section 869 of this title), prior to repeal of section 869 and general amendment of title V by section 143(a)(4)(A) and (D) of Pub. L. 91-230, respectively.

SUBCHAPTER IV-A—BILINGUAL EDUCATION

§ 880b. Omitted

CODIFICATION

Section 880b, Pub. L. 89-10, title VII, § 702, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 503, which set out the Congressional declaration of policy with regard to bilingual education and authorized appropriations for fiscal years through the 1978 fiscal year, was omitted from the Code in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268. See section 3222 of this title.

A prior section 880b, Pub. L. 89-10, title VII, § 702, as added Pub. L. 90-247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, provided for Congressional declaration of policy and defined "children of limited English-speaking ability". Such provision remaining in effect through June 30, 1975, to the extent not inconsistent with the amendment made by section 105 of Pub. L. 93-380, see section 105(a)(2)(A) of Pub. L. 93-380, title I, Aug. 21, 1974, 88 Stat. 503.

SHORT TITLE

Pub. L. 89-10, title VII, § 701, as added by Pub. L. 90-247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, and reenacted by Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 503, which provided that this subchapter be cited as the "Bilingual Education Act", was omitted from the Code as obsolete in view of the general revision of this subchapter, title VII of the Elementary and Secondary Education Act of 1965, as added by Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268. See Codification note above.

§ 880b-1. Omitted

CODIFICATION

Section 880b-1, Pub. L. 89-10, title VII, § 703, as added and amended Pub. L. 93-380, title I, § 105(a)(1), (b), Aug. 21, 1974, 88 Stat. 504, 512, which made general provisions for the bilingual education program, was omitted from the Code in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268. See section 3223 of this title.

A prior section 880b-1, Pub. L. 89-10, title VII, § 703, as added Pub. L. 90-247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, and amended Pub. L. 91-230, title I, § 151, Apr. 13, 1970, 84 Stat. 151, authorized appropriation of 15, 30, 40, 80, 100, and 135 million dollars for fiscal years ending June 30, 1968 through 1973, respectively, and for distribution of funds.

PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

§§ 880b-7 to 880b-9. Omitted

CODIFICATION

Sections were omitted from the Code in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268.

Section 880b-7, Pub. L. 89-10, title VII, § 721, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 506, provided for bilingual education programs. See section 3231 of this title.

Section 880b-8, Pub. L. 89-10, title VII, § 722, as added Pub. L. 93-380, Title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 507, related to Indian children in schools. See section 3232 of this title.

Section 880b-9, Pub. L. 89-10, title VII, § 723, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 508, and amended Pub. L. 94-273, § 3(7), Apr. 21, 1976, 90 Stat. 376; S. Res. 4, Feb. 4, 1977, related to grants and contract for training. See section 3233 of this title.

PART B—ADMINISTRATION

§§ 880b-10, 880b-11. Omitted

CODIFICATION

Sections were omitted from the Code in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268.

Section 880b-10, Pub. L. 89-10, title VII, § 731, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 509, and amended Pub. L. 94-273, § 3(7), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94-482, title V, § 501(d)(1), Oct. 12, 1976, 90 Stat. 2237, established the Office of Bilingual Education. See section 3241 of this title.

Section 880b-11, Pub. L. 89-10, title VII, § 732, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 510, and amended Pub. L. 94-482, title V, § 501(a)(21), (d)(2), Oct. 12, 1976, 90 Stat. 2236, 2237, provided for the establishment of the National Advisory Council on Bilingual Education. See section 3242 of this title.

APPOINTMENT OF NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Pub. L. 93-380, title I, § 105(a)(2)(B), Aug. 21, 1974, 88 Stat. 512, which provided for the appointment of the National Advisory Council on Bilingual Education, which Council was provided for by this section, within 90 days after Aug. 21, 1974, was omitted from the Code as obsolete in view of the omission of this section in the general revision of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143. See Codification note above.

PART C—SUPPORTIVE SERVICES AND ACTIVITIES

§§ 880b-12, 880b-13. Omitted

CODIFICATION

Sections were omitted from the Code in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268.

Section 880b-12, Pub. L. 89-10, title VII, § 741, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, provided for the administration of the research and demonstration projects program. See section 3251 of this title.

Section 880b-13, Pub. L. 89-10, title VII, § 742, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, and amended Pub. L. 94-482, title V, § 501(d)(3), Oct. 12, 1976, 90 Stat. 2237, related to research and demonstration projects. See section 3252 of this title.

SUBCHAPTER V—GENERAL PROVISIONS

§ 881. Transferred

Codification

Section, Pub. L. 89-10, title VIII, § 801, formerly title VI, § 601, Apr. 11, 1965, 79 Stat. 55, renumbered title VII, § 701, Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1204, renumbered title VIII, § 801, and amended Pub. L. 90-247, title I, §§ 142(b), 152(c), title VII, §§ 702, 703, Jan. 2, 1968, 81 Stat. 799, 803, 816, 819; Pub. L. 91-230, title I, § 162, Apr. 13, 1970, 84 Stat. 152; Pub. L. 94-193, § 1(c), Dec. 31, 1975, 89 Stat. 1102; Pub. L. 94-482, title V, § 501(*l*), Oct. 12, 1976, 90 Stat. 2237, which related to definitions, was renumbered Pub. L. 89-10, title X, § 1001 by Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3381 of this title.

§§ 883 to 885. Transferred

Codification

Section 883, Pub. L. 89-10, title VIII, § 803, formerly title VI, § 603, Apr. 11, 1965, 79 Stat. 57, renumbered title VII, § 703, and amended Pub. L. 89-750, title I, §§ 111(f), 161, Nov. 3, 1966, 80 Stat. 1196, 1204, renumbered title VIII, § 803, Pub. L. 90-247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, and amended Pub. L. 91-230, title I, § 163, title IV, § 401(c)(2), Apr. 13, 1970, 84 Stat. 152, 173, was comprised of subsecs. (a) to (c). Subsecs. (a) and (b) were repealed by Pub. L. 91-230, title IV, § 401(c)(2), Apr. 13, 1970, 84 Stat. 173. Subsec. (c), which related to federal administration, was renumbered Pub. L. 89-10, title X, § 1002 by Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3382 of this title.

Section 884, Pub. L. 89-10, title VIII, § 804, as added Pub. L. 93-380, title I, § 106, Aug. 21, 1974, 88 Stat. 512, which related to limitations on refund of payments, was renumbered Pub. L. 89-10, title X, § 1003 by Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3383 of this title.

A prior section 884, Pub. L. 89-10, title VIII, § 804, formerly title VI, § 604, Apr. 11, 1965, 79 Stat. 57, renumbered title VII, § 704, and amended Pub. L. 89-750, title I, §§ 161, 181, Nov. 3, 1966, 80 Stat. 1204, 1209, renumbered title VIII, § 804, Pub. L. 90-247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, which prohibited Federal control of education (curriculum, program of instruction, administration, personnel of any educational institution or system, selection of library resources, textbooks, or other printed or published instructional material, and assignment or transportation of students or teachers in order to overcome racial imbalance), was repealed by Pub. L. 91-230, title IV, § 401(f)(5), Apr. 13, 1970, 84 Stat. 173, and is now covered by section 1232a of this title.

Section 885, Pub. L. 89-10, title VIII, § 805, formerly title VI, § 605, Apr. 11, 1965, 79 Stat. 58, renumbered title VII, § 705, Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1204, renumbered title VIII, § 805, Pub. L. 90-247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, which prohibited the use of funds for religious worship or instruction, was renumbered Pub. L. 89-10, title X, § 1004 by Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284 and transferred to section 3384 of this title. Section 1004 of Pub. L. 89-10, as so renumbered, was amended by Pub. L. 95-561, title IX, § 901(b), Nov. 1, 1978, 92 Stat. 2305, by substituting provisions waiving requirements for certain jurisdictions for those prohibiting use of funds for religious worship or instruction.

§§ 887, 887a. Omitted

Codification

Section 887, Pub. L. 89-10, title VIII, § 807, formerly title VII, § 707, as added and renumbered Pub. L. 90-247, title I, § 172, title VII, § 702, Jan. 2, 1968, 81 Stat. 806, 816, and amended Pub. L. 91-230, title I, § 161, Apr. 13, 1970, 84 Stat. 152; Pub. L. 93-380, title I, § 107(a), Aug. 21, 1974, 88 Stat. 512; Pub. L. 95-112, § 2(f)(1), Sept. 24, 1977, 91 Stat. 912, which related to dropout prevention projects, was omitted from the Code in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268.

Section 887a, Pub. L. 89-10, title VIII, § 808, as added Pub. L. 91-230, title I, § 164, Apr. 13, 1970, 84 Stat. 153, and amended Pub. L. 93-380, title I, § 108(a), Aug. 21, 1974, 88 Stat. 513; Pub. L. 95-112, § 2(f)(2), Sept. 24, 1977, 91 Stat. 912, which related to school nutrition and health services for children from low-income families, was omitted from the Code in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268.

§§ 887c to 887c-2. Transferred

Codification

Section 887c, Pub. L. 89-10, title VIII, § 810, as added Pub. L. 92-318, title IV, § 421(a), June 23, 1972, 86 Stat. 339, and amended Pub. L. 93-380, title VI, §§ 631(a), 632(a), Aug. 21, 1974, 88 Stat. 585, 586 which related to improvement of educational opportunities for Indian children, was renumbered Pub. L. 89-10, title X, § 1005, by Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3385 of this title.

Section 887c-1, Pub. L. 92-318, title IV, § 422, as added Pub. L. 93-380, title VI, § 632(c), Aug. 21, 1974, 88 Stat. 586, and amended Pub. L. 95-561, title XI, §§ 1141(c)(1), 1152(a), Nov. 1, 1978, 92 Stat. 2329, 2333, which related to special educational training programs for teachers of Indian people, was transferred to section 3385a of this title.

Section 887c-2, Pub. L. 92-318, title IV, § 423, as added Pub. L. 93-380, title VI, § 632(c), Aug. 21, 1974, 88 Stat. 586, and amended Pub. L. 95-561, title XI, §§ 1141(c)(2), 1152(b), Nov. 1, 1978, 92 Stat. 2329, 2333, which related fellowships for Indian students, was transferred to section 3385b of this title.

§ 887d. Repealed. Pub. L. 95-561, title III, § 301(b)(1)(F), Nov. 1, 1978, 92 Stat. 2228

Section, Pub. L. 89-10, title VIII, § 811, as added Pub. L. 92-318, title V, § 505(a)(3), June 23, 1972, 86 Stat. 348, and amended Pub. L. 93-380, title IV, § 407(a), Aug. 21, 1974, 88 Stat. 553, related to consumers' education programs.

Effective Date of Repeal

Section 301(b)(1) of Pub. L. 95-561 provided in part that the repeal of this section is effective Sept. 30, 1979.

Congressional Declaration of Findings and Purpose

Pub. L. 92-318, § 505(a)(1), (2), June 23, 1972, 86 Stat. 348, formerly set out as a note under this section, which provided the findings and purpose of Congress for this section, was omitted from the Code as obsolete in view of the repeal of this section by Pub. L. 95-561.

§ 887e. Transferred

CODIFICATION

Section, Pub. L. 89-10, title VIII, § 812, as added Pub. L. 93-380, title I, § 110, Aug. 21, 1974, 88 Stat. 513, which provided for open meetings of educational agencies, was renumbered Pub. L. 89-10, title X, § 1006, by Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3386 of this title.

SUBCHAPTER VI—ETHNIC HERITAGE PROGRAM

§§ 900 to 900a-5. Omitted

CODIFICATION

Sections were omitted from the Code in the general revision of title IX of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, by Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2292.

Section 900, Pub. L. 89-10, title IX, § 901, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 346, which contained the Congressional statement of policy with regard to the ethnic heritage program. See section 3361 of this title.

Section 900a, Pub. L. 89-10, title IX, § 902, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, authorized grants for the ethnic heritage studies program. See section 3362 of this title.

Section 900a-1, Pub. L. 89-10, title IX, § 903, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, and amended Pub. L. 93-380, title I, § 111(b), Aug. 21, 1974, 88 Stat. 513, described the authorized activities for the ethnic heritage program. See section 3363 of this title.

Section 900a-2, Pub. L. 89-10, title IX, § 904, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, related to the form and content of applications for assistance. See section 3364 of this title.

Section 900a-3, Pub. L. 89-10, title IX, § 905, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, related to the administration of the program. See section 3365 of this title.

Section 900a-4, Pub. L. 89-10, title IX, § 906, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 348, established the National Advisory Council on Ethnic Heritage Studies. See section 3366 of this title.

Section 900a-5, Pub. L. 89-10, title IX, § 907, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 348, and amended Pub. L. 93-380, title I, § 111(a)(1), Aug. 21, 1974, 88 Stat. 513, authorized appropriations for fiscal years through fiscal year 1978. See section 3367 of this title.

CHAPTER 25—PAY AND PERSONNEL PROGRAM FOR OVERSEAS TEACHERS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 922, 3442 of this title; title 5 section 5722.

§ 901. Definitions

REFERENCES IN TEXT

The Canal Zone, referred to in par. (4), is deemed to refer to the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AUTHORITY OF SECRETARY OF EDUCATION UNDER THIS CHAPTER

For availability of the authority of the Secretary of Defense and the secretaries of the military departments under this chapter to the Secretary of Education with respect to functions relating to the operation of overseas schools for dependents transferred under section 3442(a) of this title, see section 3442(b) of this title.

§ 903. Administration

TEACHERS EMPLOYED BY CANAL ZONE GOVERNMENT SCHOOL SYSTEM ON SEPTEMBER 30, 1979

Subsec. (c) of this section not to apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, until the rates of basic compensation established under subsec. (c) of this section equal or exceed the rates of basic compensation then in effect for teachers who were so transferred, see section 3671(c)(1) of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 3671.

§ 904. Leave

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

TEACHERS EMPLOYED BY CANAL ZONE GOVERNMENT SCHOOL SYSTEM ON SEPTEMBER 30, 1979

Subsec. (a)(2) of this section not to apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, see section 3671(c)(2) of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 3671.

CHAPTER 25A—OVERSEAS DEFENSE DEPENDENTS' EDUCATION [NEW]

Sec.
921. Defense dependents' education system; establishment; program purposes and activities.
922. Office of Dependents' Education.
  (a) Establishment; appointment, etc., of Director.
  (b) Implementation of program functions of Secretary of Defense through Director.
  (c) Functions of Director.
  (d) Establishment of regional or area offices; organizational, etc., report to Congress; authorized number of civilian employees.
923. Tuition-paying students.
  (a) Enrollment of ineligible child in system school.
  (b) Determination of amount of tuition; use of payments.
  (c) Regulations respecting enrollment requirements.

Sec.
924. Annual educational assessment; contents; availability.
925. Budget request for school construction funds for Director of Dependents' Education.
926. School system for dependents in overseas areas; establishment and operation; tuition payment requirements for attendance in schools outside of system.
927. Allotment formula.
    (a) Establishment by regulation of minimum allotment formula; criteria.
    (b) Issuance, etc., of regulations.
    (c) Applicability of provisions respecting education of handicapped children to program operation.
928. School advisory committees.
    (a) Establishment; functions; membership.
    (b) Election of members; regulations respecting qualifications and election procedures.
    (c) Members to serve without pay.
929. Advisory Council on Dependents' Education.
    (a) Establishment; membership; Director.
    (b) Terms of office of members.
    (c) Meetings; functions.
    (d) Compensation, etc., of members.
    (e) Termination.
930. Study of defense dependents' education system.
    (a) Scope; conduct and report to Director by contractor.
    (b) Consultation requirements respecting study specifications and contractor selection.
    (c) Reporting requirements of Director.
    (d) Additional studies authorized by Director; conduct, reports, etc.
931. Regulations; issuance and contents.
932. Definitions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3442 of this title; title 37 section 429.

§ 921. Defense dependents' education system; establishment; program purposes and activities

(a) The Secretary of Defense shall establish and operate a program (hereinafter in this chapter referred to as the "defense dependents' education system") to provide a free public education through secondary school for dependents in overseas areas.

(b)(1) The Secretary shall ensure that individuals eligible to recieve[1] a free public education under subsection (a) of this section receive an education of high quality.

(2) In establishing the defense dependents' education system under subsection (a) of this section, the Secretary shall provide programs designed to meet the special needs of—

(A) the handicapped,

(B) individuals in need of compensatory education,

(C) individuals with an interest in vocational education,

(D) gifted and talented individuals, and

(E) individuals of limited English-speaking ability.

(3) The Secretary shall provide a developmental preschool program to individuals eligible to receive a free public education under subsection (a) of this section who are of preschool age if a preschool program is not otherwise available for such individuals and if funds for such a program are available.

(Pub. L. 95-561, title XIV, § 1402, Nov. 1, 1978, 92 Stat. 2365.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this title", meaning title XIV of Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2365, known as the Defense Dependents' Education Act of 1978, which enacted this chapter, section 429 of Title 37, Pay and Allowances of the Uniformed Services, and section 1769b of Title 42, The Public Health and Welfare, amended sections 1773 and 1789 of Title 42, and enacted provisions set out as notes under this section. For complete classification of this title to the Code, see Short Title note below and Tables.

EFFECTIVE DATE

Section 1415 of Pub. L. 95-561 provided that:

"(a)(1) Except as provided in paragraph (2) of this title [see Short Title note below] shall take effect on July 1, 1979.

"(2) Section 1407(b) [enacting section 926(b) of this title] and the amendments made by section 1407(c) [enacting section 429 of Title 37, Pay and Allowances of the Uniformed Services], 1408(a) [enacting section 1769b of Title 42, The Public Health and Welfare], and 1408(b) [amending sections 1773 and 1789 of Title 42] shall take effect on October 1, 1978.

"(b) Notwithstanding subsection (a) or any other provision of this title no provision of this title shall be construed to impair or prevent the taking effect of the provision of any other Act providing for the transfer of the functions described in this title to an executive department having responsibility for education."

SHORT TITLE

Section 1401 of Pub. L. 95-561 provided that: "This title [which enacted this chapter, section 429 of Title 37, Pay and Allowances of the Uniformed Services, and section 1769b of Title 42, The Public Health and Welfare, amended sections 1773 and 1789 of Title 42, and enacted provisions set out as a note under this section] may be cited as the 'Defense Dependents' Education Act of 1978'."

TRANSFER OF FUNCTIONS

For transfer of functions of the Department of Defense and the Secretary thereof under this chapter to the Secretary of Education, see section 3442(a) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 927 of this title.

§ 922. Office of Dependents' Education

(a) Establishment; appointment, etc., of Director

(1) There is established within the Department of Defense an office to be known as the Office of Dependents' Education.

(2) The Office of Dependents' Education shall be headed by a Director of Dependents' Education (hereinafter in this chapter referred to as the "Director"), who shall be a civilian and who shall be selected by the Secretary of Defense and shall report to the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.

(b) Implementation of program functions of Secretary of Defense through Director

Except with respect to the authority to prescribe regulations, the Secretary of Defense may carry out his functions under this chapter through the Director.

---

[1] So in original. Probably should be "receive".

(c) Functions of Director

The Director shall—

(1) establish personnel policies, consistent with the Defense Department Overseas Teachers Pay and Personnel Practices Act [20 U.S.C. 901 et seq.], for employees in the defense dependents' education system,

(2) have authority to transfer professional employees in the defense dependents' education system from one position to another,

(3) prepare a unified budget for each fiscal year, which shall include necessary funds for construction and operation and maintenance of facilities, for the defense dependents' education system for inclusion in the Department of Defense budget for that year,

(4) have authority to establish, in accordance with section 928 of this title, local school advisory committees,

(5) have authority to arrange for inservice and other training programs for employees in the defense dependents' education system, and

(6) perform such other functions as may be required or delegated by the Secretary of Defense or the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.

(d) Establishment of regional or area offices; organizational, etc., report to Congress; authorized number of civilian employees

(1) The Director shall establish appropriate regional or area offices for the Office of Dependents' Education in order to provide for thorough and efficient administration of the defense dependents' education system.

(2) Not later than six months after November 1, 1978, the Secretary of Defense shall submit to the Congress a report (A) describing the organization of the Office of Dependents' Education in accordance with paragraph (1), (B) describing the assignment of personnel to the central office of the Office of Dependents' Education and to such regional or area offices as are established pursuant to paragraph (1), and (C) detailing the personnel requirements of the defense dependents' education system. Whenever the Office of Dependents' Education is reorganized after the submission of the report required under the preceding sentence, the Secretary of Defense shall submit an additional report to the Congress describing the reorganization.

(3) Subject to the approval of the Secretary of Defense, the Office of Dependents' Education is authorized an appropriate number of civilian employees in its central office and such regional or area office as are established pursuant to paragraph (1).

(Pub. L. 95-561, title XIV, § 1403, Nov. 1, 1978, 92 Stat. 2365.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", probably meaning the "Defense Dependents' Education Act of 1978", title XIV of Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2365. See References in Text set out under section 921 of this title.

The Defense Department Overseas Pay and Personnel Practices Act, referred to in subsec. (c)(1), is Pub. L. 86-91, July 17, 1959, 73 Stat. 213, as amended, which is classified generally to chapter 25 (§ 901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions of the Department of Defense and the Secretary or any officer or component thereof under this chapter to the Secretary of Education, see section 3442(a) of this title.

§ 923. Tuition-paying students

(a) Enrollment of ineligible child in system school

Subject to subsection (b) of this section and in accordance with regulations issued under subsection (c) of this section, the Director may authorize the enrollment in a school of the defense dependents' education system of a child not otherwise eligible to enroll in such a school if and to the extent that there is space available for such child in the school.

(b) Determination of amount of tuition; use of payments

(1) Except as otherwise provided under subsection (c) of this section, any child permitted to enroll in a school of the defense dependents' education system under this section shall be required to pay tuition at a rate determined by the Secretary of Defense, which shall not be less than the rate necessary to defray the average cost of the enrollment of children in the system under this section.

(2) Amounts received under paragraph (1) shall be available to the defense dependents' education system to assist in defraying the cost of enrollment of children in the system under this section.

(c) Regulations respecting enrollment requirements

The Secretary of Defense may by regulation identify classes of children who shall be eligible to enroll in schools of the defense dependents' education system under this section if and to the extent that there is space available, establish priorities among such classes, waive the tuition requirement of subsection (b)(1) of this section with respect to any such class, and issue such other regulations as may be necessary to carry out this section.

(Pub. L. 95-561, title XIV, § 1404, Nov. 1, 1978, 92 Stat. 2366.)

TRANSFER OF FUNCTIONS

For transfer of functions of the Department of Defense and the Secretary or any officer or component thereof under this chapter to the Secretary of Education, see section 3442(a) of this title.

§ 924. Annual educational assessment; contents; availability

(a) The Director shall assess each year the performance of the defense dependents' education system in providing an education of high quality to children enrolled in the system. Such assessment may include the use of educational assessment measures and such other means as the Director determines to be suitable for assessing student performance.

(b) The results of each annual assessment under subsection (a) of this section with respect to an individual enrolled in the defense dependents' education system shall be made available to the sponsor of such individual, and summary results of each such annual assessment shall be made available to Members of Congress and to professional employees in the system.

(Pub. L. 95-561, title XIV, § 1405, Nov. 1, 1978, 92 Stat. 2366.)

TRANSFER OF FUNCTIONS

For transfer of functions of the Department of Defense and the Secretary or any officer or component thereof under this chapter to the Secretary of Education, see section 3442(a) of this title.

§ 925. Budget request for school construction funds for Director of Dependents' Education

The President shall include in his budget for each fiscal year a separate request for funds for construction of school facilities by the Director.

(Pub. L. 95-561, title XIV, § 1406, Nov. 1, 1978, 92 Stat. 2367.)

TRANSFER OF FUNCTIONS

For transfer of functions of the Department of Defense and the Secretary or any officer or component thereof under this chapter to the Secretary of Education, see section 3442(a) of this title.

§ 926. School system for dependents in overseas areas; establishment and operation; tuition payment requirements for attendance in schools outside of system

(a) The Secretary of Defense shall establish and operate a school system for dependents in overseas areas as part of the defense dependents' education system.

(b) Under such circumstances as he may by regulation prescribe, the Secretary of Defense may provide tuition to allow dependents in an overseas area where a school operated by the Secretary is not reasonably available to attend schools other than schools established under subsection (a) of this section on a tuition-free basis. Any school to which tuition is paid under this subsection to allow a dependent in an overseas area to attend such school shall provide an educational program satisfactory to the Secretary.

(Pub. L. 95-561, title XIV, § 1407(a), (b), Nov. 1, 1978, 92 Stat. 2367.)

TRANSFER OF FUNCTIONS

For transfer of functions of the Department of Defense and the Secretary thereof under this chapter to the Secretary of Education, see section 3442(a) of this title.

§ 927. Allotment formula

(a) Establishment by regulation of minimum allotment formula; criteria

The Director shall by regulation establish a formula for determining the minimum allotment of funds necessary for the operation of each school in the defense dependents' education system. In establishing such formula, the Director shall take into consideration—

(1) the number of students served by a school and the size of the school;

(2) special cost factors for a school, including—

(A) geographic isolation of the school,

(B) a need for special staffing, transportation, or educational programs at the school, and

(C) unusual food and housing costs,

(3) the cost of providing academic services of a high quality as required by section 921(b)(1) of this title; and

(4) such other factors as the Director considers appropriate.

(b) Issuance, etc., of regulations

Any regulation under subsection (a) of this section shall be issued, and shall become effective, in accordance with the procedures applicable to regulations required to be issued by the Department of Health, Education, and Welfare in accordance with section 1232 of this title.

(c) Applicability of provisions respecting education of handicapped children to program operation

The provisions of the Education for All Handicapped Children Act of 1975 shall apply with respect to all schools operated by the Department of Defense under this chapter.

(Pub. L. 95-561, title XIV, § 1409, Nov. 1, 1978, 92 Stat. 2369.)

REFERENCES IN TEXT

The Education for All Handicapped Children Act of 1975, referred to in subsec. (c), is Pub. L. 94-142, Nov. 29, 1975, 89 Stat. 773. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out under section 1401 of this title and Tables.

This chapter, referred to in subsec. (c), was in the original "this Act", probably meaning the "Defense Dependents' Education Act of 1978", title XIV of Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2365. See References in Text set out under section 921 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of the Department of Defense and the Secretary or any officer or component thereof under this chapter to the Secretary of Education, see section 3442(a) of this title.

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 928. School advisory committees

(a) Establishment; functions; membership

(1) The Director shall provide for the establishment of an advisory committee for each school in the defense dependents' education system. An advisory committee for a school shall advise the principal or superintendent of the school with respect to the operation of the school, may make recommendations with respect to curriculum and budget matters, and, except as provided under paragraph (2), shall advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander. The membership of each such advisory committee shall include an equal number of parents of students enrolled in the school and of employees working at the school and, when appropriate, may include a student enrolled in the school.

(2) In the case of any military installation or overseas area where there is more than one school in the defense dependents' education system, the Director shall provide for the establishment of an advisory committee for such military installation or overseas area to advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander.

(b) Election of members; regulations respecting qualifications and election procedures

Members of a school advisory committee established under this section shall be elected by individuals of voting age residing in the area to be served by the advisory committee. The Secretary of Education, in consultation with the Secretary of Defense, shall by regulation prescribe the qualifications for election to an advisory committee and procedures for conducting elections of advisory committee members.

(c) Members to serve without pay

Members of school advisory committees established under this section shall serve without pay.

(Pub. L. 95-561, title XIV, § 1410, Nov. 1, 1978, 92 Stat. 2369; Pub. L. 96-88, title V, § 508(j)(1), (2), Oct. 17, 1979, 93 Stat. 693.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-88, § 508(j)(1), substituted "parents" for "representatives of sponsors".

Subsec. (b). Pub. L. 96-88, § 508(j)(2), empowered the Secretary of Education, in consultation with the Secretary of Defense, to prescribe election qualifications and procedures in regard to advisory committees rather than vesting such power in the Secretary of Defense exclusively.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-88, effective 180 days after the first Secretary takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of the Department of Defense and the Secretary or any officer or component thereof under this chapter to the Secretary of Education, see section 3442(a) of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 922 of this title.

§ 929. Advisory Council on Dependents' Education

(a) Establishment; membership; Director

There is established in the Department of Education an Advisory Council on Dependents' Education (hereinafter in this section referred to as the "Council"). The Council shall be composed of—

(1) the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, and the Administrator of Education for Overseas Dependents of such department, who shall be co-chairman of the Council;

(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

(3) a representative of the Secretary of Education and of the Secretary of Defense.

The Director shall be the Executive Secretary of the Council.

(b) Terms of office of members

The term of office of each member of the Council appointed under subsection (a)(2) of this section shall be three years, except that—

(1) of the members first appointed under such paragraph, four shall serve for a term of one year, four shall serve for a term of two years, and four shall serve for a term of three years, as determined by the Secretary of Education at the time of their appointment, and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

No member appointed under subsection (a)(2) of this section shall serve more than two full terms on the Council.

(c) Meetings; functions

The Council shall meet at least four times each year. The functions of the Council shall be to—

(1) recommend to the Director general policies for operation of the defense dependents' education system with respect to curriculum selection, administration, and operation of the system,

(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under this chapter to the Secretary and Department of Education,

(3) provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents' education system,

(4) advise the Director on the design of the study and the selection of the contractor referred to in section 930(a)(2) of this title, and

(5) perform such other tasks as may be required by the Secretary of Education.

(d) Compensation, etc., of members

Members of the Council who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Council or otherwise engaged in the business of the Council, be entitled to receive compensation at the daily equivalent of the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, including traveltime, and while so serving on the business of the Council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons employed intermittently in the Government service.

(e) Termination

The Council shall continue in existence until terminated by law.

(Pub. L. 95-561, title XIV, § 1411, Nov. 1, 1978, 92 Stat. 2370; Pub. L. 96-88, title V, § 508(j)(3)-(8), Oct. 17, 1979, 93 Stat. 693, 694.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(2), was in the original "the Dependents' Education Act of 1978" and probably meant the Defense Dependents' Education Act of 1978 (Pub. L. 95-561, title XIV, Nov. 1, 1978, 92 Stat. 2365, as amended), which is classified principally to this chapter. For complete classification of the Act to the Code, see Short Title note set out under section 921 of this title and Tables.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-88, § 508(j)(3), substituted "Department of Education" for "Department of Defense" in text preceding par. (1).

Subsec. (a)(1). Pub. L. 96-88, § 508(j)(4), provided that the Administrator of Education for Overseas Dependents of the Department of Education was to be a member of the council and its co-chairman.

Subsec. (a)(2). Pub. L. 96-88, § 508(j)(5), substituted "Secretary of Education" for "Assistant Secretary", "demonstrated an interest" for "versed by training or experience", "parents of dependents" for "sponsors of students", and "dependents' education system" for "defense dependents' education system".

Subsec. (a)(3). Pub. L. 96-88, § 508(j)(5), required membership on the Council for representatives of the Secretaries of Education and Defense and struck out requirements for representation of the Commissioner of Education, Director of the National Institute of Education, Director of the Educational Directorate of the National Science Foundation, Chairman of the National Endowment for the Arts, Chairman of the National Endowment for the Humanities, and the Secretaries of the military departments.

Subsec. (b)(1). Pub. L. 96-88, § 508(j)(6), substituted "Secretary of Education" for "Assistant Secretary".

Subsec. (c)(2). Pub. L. 96-88, § 508(j)(7)(B), added par. (2). Former par. (2) redesignated (3).

Subsec. (c)(3), (4). Pub. L. 96-88, § 508(j)(7)(A), redesignated former pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 96-88, § 508(j)(7)(A), (8), redesignated former par. (4) as (5) and, as so redesignated, substituted "Secretary of Education" for "Assistant Secretary".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-88 effective 180 days after the first Secretary takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of the Department of Defense and the Secretary or any officer or component thereof under this chapter to the Secretary of Education, see section 3442(a) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 930 of this title.

§ 930. Study of defense dependents' education system

(a) Scope; conduct and report to Director by contractor

(1) As soon as practicable after November 1, 1978, the Director shall provide for a comprehensive study of the entire defense dependents' education system, which shall include a detailed analysis of the education programs and the facilities of the system.

(2) The study required by this subsection shall be conducted by a contractor selected by the Director after an open competition. After conducting such study, the contractor shall submit a report to the Director not later than two years after July 1, 1979, describing the results of the study and giving its assessment of the defense dependents' education system.

(b) Consultation requirements respecting study specifications and contractor selection

In designing the specifications for the study to be conducted pursuant to subsection (a)(1) of this section, and in selecting a contractor to conduct such study under subsection (a)(2) of this section, the Director shall consult with the Advisory Council on Dependents' Education established under section 929 of this title.

(c) Reporting requirements of Director

The Director shall submit to the Congress not later than one year after July 1, 1979, the report submitted to him under subsection (a)(2) of this section describing the results of the study carried out pursuant to subsection (a)(1) of this section, together with the recommendations, if any, of the contractor for legislation or any increase in funding needed to improve the defense dependents' education system. Notwithstanding any law, rule, or regulation to the contrary, such report shall not be submitted to any review before its transmittal to the Congress, but the Secretary of Defense shall, at the time of the transmittal of such report, submit to the Congress such recommendations as he may have with respect to legislation or any increase in funding needed to improve the defense dependents' education system.

(d) Additional studies authorized by Director; conduct, reports, etc.

The Director may provide for additional studies of the defense dependents' education system to be conducted in accordance with the provisions of this section, but such studies shall not be conducted more frequently than once a year. A report of each study shall be submitted to the Congress in accordance with subsection (c) of this section, and the second sentence of such subsection shall apply with respect to the transmission of each such report.

(Pub. L. 95-561, title XIV, § 1412, Nov. 1, 1978, 92 Stat. 2371; Pub. L. 96-46, § 2(a)(8), Aug. 6, 1979, 93 Stat. 340.)

AMENDMENTS

1979—Subsec. (a)(2). Pub. L. 96-46 substituted "two years after July 1, 1979" for "one year after July 1, 1979".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of the Department of Defense and the Secretary or any officer or component thereof under this chapter to the Secretary of Education, see section 3442(a) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 929 of this title.

§ 931. Regulations; issuance and contents

Not later than 180 days after July 1, 1979, the Secretary of Defense shall issue regulations to carry out this chapter. Such regulations shall—

(1) prescribe the educational goals and objectives of the defense dependents' education system,

(2) establish standards for the development of curricula for the system and for the selection of instructional materials,

(3) prescribe professional standards for professional personnel employed in the system,

(4) provide for arrangements between the Director and commanders of military installations for necessary logistic support for schools of the system located on military installations,

(5) provide for a recertification program for professional personnel employed in the system, and

(6) provide for such other matters as may be necessary to ensure the efficient organization and operation of the defense dependents' education system.

(Pub. L. 95-561, title XIV, § 1413, Nov. 1, 1978, 92 Stat. 2372.)

TRANSFER OF FUNCTIONS

For transfer of functions of the Department of Defense and the Secretary or any officer or component thereof under this chapter to the Secretary of Education, see section 3442(a) of this title.

§ 932. Definitions

For purposes of this chapter:

(1) The term "dependent" means a minor individual—

(A) who has not completed secondary schooling, and

(B) who is the child, stepchild, adopted child, ward, or spouse of a sponsor, or who is a resident in the household of a sponsor who stands in loco parentis to such individual and who receives one-half or more of his support from such sponsor.

(2) The term "sponsor" means—

(A) a member of the Armed Forces serving on active duty, or

(B) a civilian officer or employee of the Department of Defense paid from appropriated funds.

(3) The term "overseas area" means any area situated outside the United States.

(4) The term "United States", when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Island).

(Pub. L. 95-561, title XIV, § 1414, Nov. 1, 1978, 92 Stat. 2372.)

TRANSFER OF FUNCTIONS

For transfer of functions of the Department of Defense and the Secretary thereof under this chapter to the Secretary of Education, see section 3442(a) of this title.

CHAPTER 26—SUPPORT AND SCHOLARSHIP IN HUMANITIES AND ARTS; MUSEUM SERVICES

SUBCHAPTER I—NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

§ 951. Congressional declaration of purpose

1979 WHITE HOUSE CONFERENCE ON THE ARTS

Pub. L. 95-272, title I, §§ 101 to 109, May 3, 1978, 92 Stat. 222 to 224, provided that:

"SHORT TITLE

"SEC. 101. This title may be referred to as the '1979 White House Conference on the Arts Act'.

"FINDINGS

"SEC. 102. The Congress hereby finds and declares—

"(1) that the development and encouragement of arts activity in the United States are of the utmost importance to the Nation's life and heritage;

"(2) that concern for the quality of life in the United States requires constant dedication, planning, and reflection on the state of the arts in the Nation;

"(3) that the arts have an increasingly significant impact on the economic sector of our society;

"(4) that it is appropriate to encourage the maximum and broadest participation by the Nation's citizenry, including, but not limited to, artists, knowledgeable citizens and other interested persons, representatives of State and local governments, labor, agriculture, business and industry, educators (including art educators) and experts in all fields of the arts, in the process of insuring needed support for the arts among all parties concerned at Federal, State, and local levels; and

"(5) that in order to implement these findings, it is desirable to call a White House Conference on the Arts.

"WHITE HOUSE CONFERENCE ON THE ARTS

"SEC. 103. (a) The President shall call a White House Conference on the Arts to be held no later than December 31, 1979. The purpose of the Conference shall be to help develop a climate in which the arts can flourish, and recommendations to formulate an assessment of problems and issues relating to the arts, and to develop recommendations relating to the appropriate growth of the arts in all parts of the Nation.

"(b) The Conference shall be planned and conducted under the direction of a Presidentially appointed National Conference Planning Council on the Arts headed by a Chairman (appointed by the President) from among the members of the Council. Each department and agency of the Federal Government shall provide such cooperation and assistance to the Council, including the assignment of personnel; as may reasonably be required by the Council.

"NATIONAL CONFERENCE PLANNING COUNCIL ON THE ARTS

"SEC. 104. (a) There is hereby established a National Conference Planning Council on the Arts. The Council shall be composed of 15 members appointed by the President. The Council shall provide guidance and planning for the Conference.

"(b)(1) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to compensation received in his regular employment.

"(2) Members of the Council, other than any member referred to in paragraph (1), shall receive pay at rates not to exceed the daily rate in effect for GS-18 in section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties (including time engaged in travel). While so serving away from their homes or regular places of business, such members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized in section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(c) The Council shall cease to exist 180 days, unless extended by the President, but in no event a period not to exceed one year, after the submission of the report required in section 105.

"REPORT

"SEC. 105. A report of the Conference shall be submitted by the Council to the President and to the Congress no later than 180 days following the date on which the Conference is called and shall include recommendations for any legislative action necessary to implement the recommendations in the required report. The report shall immediately be made available to the public.

"ADMINISTRATIVE PROVISIONS

"SEC. 106. In carrying out the provisions of this title, the Council and the Chairman shall—

"(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate, including Federal advisory bodies having responsibilities in areas affecting the arts;

"(2) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduct conferences on the arts before the Conference;

"(3) prepare and make available necessary background materials for the use of delegates to the Conference;

"(4) prepare and distribute such interim reports of the Conference as may be appropriate; and

"(5) appoint such individuals as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates of pay not to exceed the rate prescribed for GS-18 in section 5332 of such title.

"GRANTS

"SEC. 107. From any sums appropriated under section 108, the Chairman, with the approval of the Council, may make a grant to each State, upon application by the State arts agency of the State, in order to assist in defraying the costs of the State in participating in the Conference program, including the conduct of at least one conference within the State: *Provided*, That broad and maximum public participation is assured by such State arts agency which would include, but not be limited to, artists, knowledgeable citizens and other interested persons, representatives of State and local government, labor, agriculture, business and industry, educators (including art educators), and experts in all fields of the arts.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 108. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

"DEFINITIONS

"SEC. 109. For purposes of this title—

"(1) the term 'Chairman' means the Chairman of the National Conference Planning Council on the Arts;

"(2) the term 'Conference' means the White House Conference on the Arts;

"(3) the term 'Council' means the National Conference Planning Council on the Arts;

"(4) the term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, the Northern Marianas, and any other territory or possession of the United States; and

"(5) the term 'arts' includes, but is not limited to, music (instrumental and vocal), dance, drama, theater, folk, art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, tape, and sound recording, and the arts related to the presentation, performance, execution, and exhibition of such major art forms."

1979 WHITE HOUSE CONFERENCE ON THE HUMANITIES

Pub. L. 95-272, title II, §§ 201 to 209, May 3, 1978, 92 Stat. 224 to 226, provided that:

"SHORT TITLE

"SEC. 201. This title may be cited as the '1979 White House Conference on the Humanities Act'.

"FINDINGS

"SEC. 202. The Congress hereby finds and declares—

"(1) that the development and encouragement of national strength in the humanities is of the utmost importance to the life and heritage of the United States;

"(2) that concern for the vitality of democratic institutions, the character of national policies, and the application of our national heritage to the needs of the present and future requires full commitment to, planning for, and reflection on the role of the humanities in national life;

"(3) that the humanities make an increasingly significant contribution to public and private decisions having major social and economic impact;

"(4) that the relationship of the humanities to the health and pluralism of the Nation's culture and system of education is of fundamental importance;

"(5) that it is appropriate to encourage the maximum and broadest participation by the Nation's citizenry, including knowledgeable citizens and other interested persons, State and local government, institutions and organizations in the humanities, representatives of labor, agriculture, business and industry, educators, scholars, and other participants in all fields of the humanities in the process of insuring needed support among all parties concerned at Federal, State, and local levels;

"(6) that in order to implement these findings, it is desirable to call a White House Conference on the Humanities.

"WHITE HOUSE CONFERENCE ON THE HUMANITIES

"SEC. 203. (a) The President shall call a White House Conference on the Humanities to be held no later than December 31, 1979. The purpose of the Conference shall be to help develop a climate in which the humanities can flourish, to formulate an assessment of problems and issues relating to the humanities, and to develop recommendations relating to strengthening the humanities in all parts of the Nation.

"(b) The Conference shall be planned and conducted under the direction of a Presidentially appointed National Planning Council on the Humanities headed by a Chairman (appointed by the President) from among the members of the Council. Each department and agency of the Federal Government shall provide such cooperation and assistance to the Council, including the assignment of personnel, as may reasonably be required by the Council.

"NATIONAL PLANNING COUNCIL ON THE HUMANITIES

"SEC. 204. (a) There is hereby established a National Planning Council on the Humanities. The Council shall be composed of 15 members appointed by the President. The Council shall provide guidance and planning for the Conference.

"(b)(1) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to compensation received in his regular employment.

"(2) Members of the Council, other than any member referred to in paragraph (1), shall receive pay at rates not to exceed the daily rate in effect for GS-18 in section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties (including time engaged in travel). While so serving away from their homes or regular places of business, such members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized in section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(c) The Council shall cease to exist 180 days, unless extended by the President, but in no event a period not to exceed one year, after the submission of the report required in section 205.

"REPORT

"SEC. 205. A report of the Conference shall be submitted by the Council to the President and to the Congress no later than 180 days following the date on which the Conference is called and shall include recommendations for any legislative action necessary to implement the recommendations in the required report. The report shall immediately be made available to the public.

"ADMINISTRATIVE PROVISIONS

"SEC. 206. In carrying out the provisions of this title, the Council and the Chairman shall—

"(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate, including Federal advisory bodies having responsibilities in areas affecting the humanities;

"(2) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduct conferences on the humanities before the Conference;

"(3) prepare and make available necessary background materials for the use of delegates to the Conference;

"(4) prepare and distribute such interim reports of the Conference as may be appropriate; and

"(5) appoint such individuals as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates of pay not to exceed the rate prescribed for GS-18 in section 5332 of such title.

"GRANTS

"SEC. 207. (a) From any sums appropriated under section 208, the Chairman with the approval of Council, may make a grant to each State, upon application by the State humanities entity of the State, in order to assist in defraying the costs of the State in participating in the Conference program, including the conduct of at least one conference within the State: *Provided*, That the broadest and maximum public participation is assured by such State humanities entity which would include, but would not be limited to, knowledgeable citizens and other interested persons, State and local government, institutions and organizations in the humanities, representatives of labor, agriculture, business and industry, educators, scholars, and other participants in all fields of the humanities.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 208. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

"DEFINITIONS

"SEC. 209. For purposes of this title—

"(1) the term 'Chairman' means the Chairman of the National Planning Council on the Humanities;

"(2) the term 'Conference' means the White House Conference on the Humanities;

"(3) the term 'Council' means the National Planning Council on the Humanities;

"(4) the term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, the Northern Marianas, and any other territory or possession of the United States; and

"(5) the term 'humanities' includes, but is not limited to, the study of the following: language, both modern and classical; linguistics; literature; history; jurisprudence; philosophy; archeology; comparative religion; ethics; the history, criticism, theory, and practice of the arts; those aspects of the Social sciences which have humanistic content and employ humanistic methods; and the study and application of the humanities to the human environment with particular attention to the relevance of the humanities to the current conditions of national life."

§ 954. National Endowment for the Arts

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Program of contracts or grants-in-aid to groups and individuals for projects and productions; standards

The Chairman, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid to, groups or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support—

[*See main edition for text of* (*1*) *to* (5)]

In the case of publications under clause (5) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 only if the Chairman consults with the Joint Committee on Printing of the Congress and the Chairman submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501.

[*See main edition for text of* (*d*) *to* (*m*)]

(As amended S. Res. 30, Mar. 7, 1979.)

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

§ 956. National Endowment for the Humanities

[*See main edition for text of* (*a*) *and* (*b*)]

(c) National policy; research and programs; fellowships and grants for training and workshop activities; interchange of information; education, public understanding and appreciation; publications

The Chairman, with the advice of the National Council on the Humanities (hereinafter established), is authorized to—

[*See main edition for text of* (*1*) *to* (*7*)]

In the case of publications under clause (6) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 only if the Chairman consults with the Joint Committee on Printing of the Congress and the Chairman submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501.

[*See main edition for text of* (*d*) *to* (*h*)]

(As amended S. Res. 30, Mar. 7, 1979.)

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

§ 958. Federal Council on the Arts and the Humanities

[*See main edition for text of* (*a*)]

(b) Composition; Chairman, designation by President; changes in membership to meet changes in programs or executive branch organization

The Council shall be composed of the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the United States Commissioner of Education, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, the Librarian of Congress, the Director of the National Gallery of Art, the Chairman of the Commission of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, a member designated by the Director of the International Communication Agency and a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission on Art and Antiquities, and a member designated by the Speaker of the House. The President shall designate the Chairman of the Council from among the members. The President is authorized to change the membership of the Council from time to time as he deems necessary to meet changes in Federal programs or executive branch organization.

[*See main edition for text of* (*c*)]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(12), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

"Director of the International Communication Agency" was substituted for "Secretary of State" in subsec. (b) pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(12), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the Secretary of State under subsec. (b) of this section to the Director of the International Communication Agency.

SUBCHAPTER II—MUSEUM SERVICES

§§ 962, 963

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 964. Director of Institute; appointment and compensation; report to Secretary of Health, Education, and Welfare; coordination with other agencies and organizations of Federal Government

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, termination of certain offices and positions, and redesignation of the Department of Health, Education, and Welfare as the Department of Health and Human Services, see sections 3441, 3503, and 3508 of this title.

§§ 965 to 968

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 26A—INDEMNITY FOR EXHIBITIONS OF ARTS AND ARTIFACTS

§ 972. Items eligible for indemnity agreements

(a) The Council may make an indemnity agreement under this chapter with respect to—

(1) works of art, including tapestries, paintings, sculpture, folk art, graphics, and craft arts;

(2) manuscripts, rare documents, books, and other printed or published materials;

(3) other artifacts or objects; and

(4) photographs, motion pictures, or audio and video tape;

which are (A) of educational, cultural, historical, or scientific value, and (B) the exhibition of which is certified by the Director of the International Communication Agency or his designee as being in the national interest.

[*See main edition for text of (b)*]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(10), 42 F.R. 62461, 91 Stat. 1637.)

Transfer of Functions

"Director of the International Communication Agency" was substituted for "Secretary of State" in subsec. (a) pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(10), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President, which transferred all functions vested in the Secretary of State in subsec. (a) of this section to the Director of the International Communication Agency.

CHAPTER 28—HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE

SUBCHAPTER IV—STUDENT ASSISTANCE

Part B—Federal, State, and Private Programs of Low-Interest Insured Loans to Students in Institutions of Higher Education

Sec.
1087-3a. Loan as part of expected family contribution [New].

Part D—Direct Loans to Students in Institutions of Higher Education

1087gg. Collection of defaulted loans [New].

Chapter Referred to in Other Sections

This chapter is referred to in section 3441 of this title; title 7 section 1704; title 25 sections 13, 1809; title 26 section 103; title 38 section 246; title 42 section 2752.

SUBCHAPTER I—COMMUNITY SERVICE, CONTINUING EDUCATION, AND LIFELONG LEARNING PROGRAM GRANTS

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1145c, 3286 of this title; title 42 section 4763.

Part A—Community Service and Continuing Education Programs

§ 1001. Authorization of appropriations

(a) For the purpose of (1) assisting the people of the United States in the solution of community problems such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use by enabling the Commissioner to make grants under this subchapter to strengthen community service programs of colleges and universities, (2) supporting the expansion of continuing education in colleges and universities and (3) supporting resource materials sharing programs, there are authorized to be appropriated $40,000,000 for the fiscal year 1977 and for each of the succeeding fiscal years ending prior to October 1, 1980.

(b) For the purpose of carrying out a program for the promotion of lifelong learning in accordance with the provisions of part B, there are authorized to be appropriated, $20,000,000 for fiscal year 1977, $30,000,000 for fiscal year 1978, and $40,000,000 for fiscal year 1979, and for each of the succeeding fiscal years ending prior to October 1, 1980.

(As amended Pub. L. 96-49, § 2, Aug. 13, 1979, 93 Stat. 351.)

Amendments

1979—Subsec. (a). Pub. L. 96-49, § 2(a), substituted provisions relating to fiscal year 1977 and for each of the succeeding fiscal years ending prior to October 1, 1980 for provision relating to fiscal years 1977, 1978, and 1979.

Subsec. (b). Pub. L. 96-49, § 2(b), inserted after appropriations authorization of $40,000,000 for fiscal year 1979, authorization of $40,000,000 for each of the succeeding fiscal years ending prior to October 1, 1980.

Short Title of 1979 Amendment

Section 1 of Pub. L. 96-49 provided: "That this Act [enacting section 1087gg of this title; amending sections 513, 1001, 1021, 1042, 1051, 1070a, 1070b, 1070c, 1070d, 1070d-2, 1070e-1, 1078, 1087-1, 1087aa, 1088, 1101, 1119, 1121, 1132a, 1132b, 1132c, 1132c-4, 1134, 1134e, 1134i, 1134n, 1134r-1, 1135, 1135a, 1136b, 1142b, 1221d, and 1221e of this title; enacting provisions set out as notes under sections 1070a, 1087-1, 1087gg, and 1088 of this title, and amending provisions set out as a note under section 1070a of this title] may be cited as the 'Higher Education Technical Amendments of 1979'."

Short Title of 1978 Amendment

Section 1 of Pub. L. 95-566 provided: "That this Act [enacting section 1087-3a of this title, amending sections 1070a, 1070c-2, 1070d-1, 1075, 1077, 1078, 1088 and 1088f of this title, and enacting provisions set out as a note under this section] may be cited as the 'Middle Income Student Assistance Act'."

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1003. Allotments to States

(a) Amount

(1) From the sums appropriated pursuant to section 1001(a) of this title for any fiscal year which are not reserved under section 1005a(a) of this title, the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the population of such State bears to the population of all the States, except that, for any fiscal year beginning on or after October 1, 1976, no State shall be allotted from such sums less than the amount which such State received during the fiscal year beginning July 1, 1974.

(2) From the sums appropriated pursuant to section 1001(a) of this title for fiscal year 1980 which are not reserved under section 1005a(a) of this title or section 1008b(a) of this title, the Commissioner shall allot to each State an amount equal to the product of—

(A) the amount of such State's allotment under paragraph (1) for fiscal year 1979; and

(B) a fraction, the numerator of which is the amount appropriated pursuant to section 1001(a) of this title for fiscal year 1980 (less any amount reserved under section 1005a(a) of this title or section 1008b(a) of this title) and the denominator of which is the amount appropriated pursuant to section 1001(a) of this title for fiscal year 1979 (less any amount reserved under section 1005a(a) of this title or section 1008b(a) of this title).

[*See main edition for text of* (*b*) *to* (*d*)]

(As amended Pub. L. 95-43, § 1(a)(1), June 15, 1977, 91 Stat. 213; Pub. L. 96-96, § 1, Oct. 31, 1979, 93 Stat. 729.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-96 designated existing provisions as par. (1) and added par. (2).

1977—Subsec. (a). Pub. L. 95-43 substituted "July 1, 1974" for "July 1, 1975".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1004. Uses of allotments

A State's allotment under section 1003 of this title may be used, in accordance with its State plan approved under section 1005(b) of this title, to provide new, expanded, or improved community service and continuing education programs, including resource material sharing programs.

(As amended Pub. L. 95-43, § 1(a)(2), June 15, 1977, 91 Stat. 213.)

AMENDMENTS

1977—Pub. L. 95-43, correcting an error in Pub. L. 94-482, struck out a comma appearing following "material sharing programs", which had been editorially deleted in the 1976 Edition.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

§ 1005. State plans

(a) Submission to Commissioner through designated State agencies, etc.; required provisions

Any State desiring to receive its allotment of funds under this part for use in community service and continuing education programs, including resource material sharing programs, shall designate or create a State agency or institution which has special qualifications with respect to solving community problems and which is broadly representative of institutions of higher education in the State which are competent to offer community service and continuing education programs, including resource material sharing programs, and shall submit to the Commissioner a State plan. If a State desires to designate for the purpose of this section an existing State agency or institution which does not meet these requirements, it may do so if the agency or institution takes such action as may be necessary to acquire such qualifications and assure participation of such institutions, or if it designates or creates a State advisory council which meets the requirements not met by the designated agency or institution to consult with the designated agency or institution in the preparation of the State plan. A State plan submitted under this part shall—

[*See main edition for text of* (*1*)]

(2) set forth a comprehensive, coordinated, and statewide system of community service and continuing education programs, including resource materials sharing programs, under which funds paid to the State (including funds paid to an institution pursuant to section 1006(c) of this title) under its allotments under section 1003 of this title will be expended solely for community service and continuing education programs, including resource materials sharing programs, which have been approved by the agency or institution administering the plan (except that if a comprehensive, coordinated, and statewide system of community service and continuing education programs, including resource materials sharing programs, cannot be effectively carried out by reason of insufficient funds, the plan may set forth one or more proposals for community service and continuing education programs, including resource materials sharing programs, in lieu of a comprehensive, coordinated, and statewide system of such programs);

(3) set forth the policies and procedures to be followed in allocating Federal funds to institutions of higher education and combinations thereof in the State, which policies and procedures shall insure that due consideration will be given—

(A) to the relative capacity and willingness of particular institutions of higher education and combinations thereof (whether public or private) to provide effective community service and continuing education programs, including resource materials sharing programs;

(B) to the availability of and need for community service and continuing education programs, including resource materials sharing programs, among the population within the State; and

(C) to the results of periodic evaluations of the programs carried out under this part;

[*See main edition for text of* (*4*) *and* (*5*)]

(6) provide assurances that all institutions of higher education in the State have been given the opportunity to participate in the development of the State plan.

[*See main edition for text of* (*b*) *and* (*c*)]

(As amended Pub. L. 95-43, § 1(a)(3), (b)(1), (2), June 15, 1977, 91 Stat. 213, 218.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-43, § 1(b)(1), struck out "or combination" following "an institution".

Subsec. (a)(3). Pub. L. 95-43, § 1(b)(2), corrected an error in section 101(b)(6)(A) of Pub. L. 94-482, which amended this paragraph in 1976, without affecting the prior amendment.

Subsec. (a)(6). Pub. L. 95-43, § 1(a)(3), inserted introductory word "provide".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1005a to 1008a

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1008b. Technical assistance and administration

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1003 of this title.

§ 1009. National Advisory Council on Extension and Continuing Education

(a) Appointment; composition; meetings

The President shall, within ninety days of November 8, 1965, appoint a National Advisory Council on Extension and Continuing Education (hereafter referred to as the "Advisory Council"), consisting of one representative each of the Departments of Agriculture, Commerce, Defense, Labor, Interior, and Housing and Urban Development, and the International Communication Agency and the Community Services Administration, and of such other Federal agencies having extension education responsibilities as the President may designate, and twelve members appointed, for staggered terms and without regard to the civil service laws, by the President. Such twelve members shall, to the extent possible, include persons knowledgeable in the fields of extension and continuing education, State and local officials, and other persons having special knowledge, experience, or qualification with respect to community problems, and persons representative of the general public. The Advisory Council shall meet at the call of the Chairman but not less often than twice a year.

[*See main edition for text of* (*b*) *to* (*f*)]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(13), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

All functions vested in the Department of State under subsec. (a) of this section were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, § 7(a)(13), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President. Section 5 of Reorg. Plan No. 2 of 1977 authorized the Director of the International Communication Agency to delegate the performance of any such transferred function to any officer, employee, or unit of the International Communication Agency. Accordingly, "International Communication Agency" was substituted for "Department of State" in subsec. (a) of this section.

PART B—LIFELONG LEARNING PROGRAM

§ 1015b. Implementation of program by Assistant Secretary

(a) Planning, assessment and coordination activities

The Assistant Secretary shall carry out, from funds appropriated pursuant to section 1001(b) of this title, a program of planning, assessing, and coordinating projects related to lifelong learning. In carrying out the provisions of this section, the Assistant Secretary shall—

[*See main edition for text of* (*1*) *to* (*6*)]

(7) to the extent practicable, seek the advice and assistance of the agencies of the Education Division (including the Office of Education, the National Institute of Education, the Fund for the Improvement of Postsecondary Education, and the National Center for Education Statistics), other agencies of the Federal Government, public advisory groups (including the National Advisory Councils on Extension and Continuing Education, Adult Education, Career Education, Community Education, and Vocational Education), Commissions (including the National Commission on Libraries and Information Sciences and the National Commission on Manpower Policy), State agencies, and such other persons or organizations as may be appropriate, in carrying out the Assistant Secretary's responsibilities, and make maximum use of information and studies already available.

The review required by clause (3) of this subsection shall include—

[*See main edition for text of* (*i*) *to* (*v*); (*b*) *to* (*e*)]

(As amended Pub. L. 95-43, § 1(a)(4), June 15, 1977, 91 Stat. 213.)

AMENDMENTS

1977—Subsec. (a)(7). Pub. L. 95-43 substituted "Assistant Secretary's" for "Commissioner's".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective

Date of 1977 Amendment note under section 1071 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1015c. Annual reports by Assistant Secretary; contents

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER II—LIBRARY ASSISTANCE

§ 1021. College library programs

[*See main edition for text of* (a)]

(b) Authorization of appropriations

For the purpose of making grants under parts A and B of this subchapter, there are authorized to be appropriated $110,000,000 for fiscal year ending 1977, $115,000,000 for fiscal year 1978, and $120,000,000 for fiscal year 1979, and for the succeeding fiscal year. Of the sums appropriated pursuant to the preceding sentence for any fiscal year, 70 per centum shall be used for the purposes of part A of this subchapter and 30 per centum shall be used for the purposes of part B of this subchapter, except that the amount available for the purposes of part B of this subchapter for any fiscal year shall not be less than the amount appropriated for such purposes for the fiscal year ending June 30, 1972.

[*See main edition for text of* (c)]

(As amended Pub. L. 96-49, § 3(a), Aug. 13, 1979, 93 Stat. 351.)

Amendments

1979—Subsec. (b). Pub. L. 96-49 authorized appropriation of $120,000,000 for fiscal year 1980.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Part A—College Library Resources

§§ 1022 to 1026

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Part B—Library Training and Research Grants

§ 1031. Training and research programs

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1033, 1034

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Part C—Strengthening Research Library Resources

§ 1042. Authorization of appropriations

There are authorized to be appropriated $10,000,000 for the fiscal year 1977, $15,000,000 for fiscal year 1978, and $20,000,000 for fiscal year 1979, and for the succeeding fiscal year.

(As amended Pub. L. 96-49, § 3(b), Aug. 13, 1979, 93 Stat. 351.)

Amendments

1979—Pub. L. 96-49 authorized appropriation of $20,000,000 for fiscal year 1980.

§ 1044. Regional balance in allocation of funds

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER III—STRENGTHENING DEVELOPING INSTITUTIONS

§ 1051. Special assistance

[*See main edition for text of* (a)]

(b) Authorization of appropriations

(1) For the purpose of carrying out this subchapter, there are authorized to be appropriated $120,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1980.

[*See main edition for text of* (2) *and* (3)]

(As amended Pub. L. 96-49, § 4, Aug. 13, 1979, 93 Stat. 351.)

Amendments

1979—Subsec. (b)(1). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain

offices and positions, see sections 3441 and 3503 of this title.

§§ 1052 to 1055

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER IV—STUDENT ASSISTANCE

Part A—Grants to Students in Attendance at Institutions of Higher Education

Part Referred to in Other Sections

This part is referred to in sections 1078, 1087-3a, 1088b, 1088c of this title.

§ 1070. Statement of purpose; program authorization

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 1—BASIC EDUCATIONAL OPPORTUNITY GRANTS

Subpart Referred to in Other Sections

This subpart is referred to in sections 1070, 1070b-1, 1070e, 1088f-1, 1145c of this title.

§ 1070a. Basic educational opportunity grants: amount and determinations; applications

(a) Student payments; basic grant formula; reductions schedule; limitations; actual cost of attendance; effective date; submittal to Congress; family contributions; regulations, criteria; effective family income; noncredit remedial course of study; publications in Federal Register

(1) The Commissioner shall, during the period beginning July 1, 1972, and ending September 30, 1980, pay to each student who has been accepted for enrollment in, or is in good standing at, an institution of higher education (according to the prescribed standards, regulations, and practices of that institution) for each academic year during which that student is in attendance at that institution, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2).

[*See main edition for text of* (*2*)]

(3)(A) [*See main edition for text of* (*i*) *and* (*ii*)]

(B) [*See main edition for text of* (*i*) *to* (*iii*)]

(iv) In determining the expected family contribution under this subparagraph for any academic year after academic year 1978-1979, an assessment rate of not more than 10.5 per centum shall be applied to parental discretionary income.

(C) The Commissioner shall promulgate special regulations for determining the expected family contribution and effective family income of a student who is determined (pursuant to regulations of the Commissioner) to be independent of his parents or guardians (or the person or persons having an equivalent relationship to such student). Such special regulations shall be consistent with the basic criteria set forth in division (ii) of subparagraph (B). In addition, such regulations shall—

(i) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

(ii) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under division (i) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student; and

(iii) in establishing a portion of effective family income which shall be exempt from assessment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such portion for such students as is used for dependent students and for independent students who have dependents.

(D) Notwithstanding any other provision of law, regulations required to be promulgated by the Commissioner under this paragraph for the academic year 1979-1980 shall be effective with respect to funds appropriated for the purpose of making payments under this subpart for that academic year.

[*See main edition for text of* (*4*)]

(b) Payments; insufficient available funds, entitlements; excess funds

[*See main edition for text of* (*1*) *and* (*2*)]

(3) [*See main edition for text of* (*A*)]

(B)(i) If, during any period of any fiscal year, the funds available for payments under this subpart are insufficient to satisfy fully all entitlements under this subpart, the amount paid with respect to each such entitlement shall be—

(I) the full amount in the case of any entitlement which exceeds $1,600;

(II) in the case of any entitlement which exceeds $1,200 but does not exceed $1,600, 90 per centum thereof;

(III) in the case of any entitlement which exceeds $1,000 but does not exceed $1,200, 75 per centum thereof;

(IV) in the case of any entitlement which exceeds $800 but does not exceed $1,000, 70 per centum thereof;

(V) in the case of any entitlement which exceeds $600 but does not exceed $800, 65 per centum thereof; and

(VI) in the case of any entitlement which does not exceed $600, 50 per centum thereof.

(ii) If, during any fiscal year, funds available for making payments under this subpart exceed the amount necessary to make the payments prescribed in division (i), such excess shall be paid with respect to each entitlement under this subpart in proportion to the degree to which that entitlement is unsatisfied.

(iii) In the event that, at the time when payments are to be made pursuant to this subparagraph (B), funds available therefor are insufficient to pay the amounts set forth in division (i), the Commissioner shall pay with respect to each entitlement an amount which bears the same ratio to the appropriate amount set forth in division (i) as the total amount of funds so available at such time for such payments bears to the amount necessary to pay the amounts indicated in division (i) in full.

(iv) No method of computing or manner of distribution of payments under this subpart shall be used which is not consistent with this subparagraph.

(v) In no case shall a payment under this subparagraph be made if the amount of such payment after application of the provisions of this subparagraph is less than $50.

(4)(A) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 per centum or less, then all of excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

(B) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 per centum, then all of such funds shall remain available for making such payments but payments may be made under this division only with respect to entitlements for that fiscal year.

(5) No payment may be made on the basis of entitlements established under this subpart during the fiscal year ending September 30, 1980, if, for such fiscal year—

(A) the appropriation for making grants under subpart 2 of this part does not at least equal $370,000,000;

(B) the appropriation for work-study payments under section 2751 of title 42 does not at least equal $500,000,000; and

(C) the appropriation for capital contributions to student loan funds under part D of this subchapter does not at least equal $286,000,000.

[*See main edition for text of* (c) *to* (e)]

(As amended Pub. L. 95-43, § 1(a)(5), June 15, 1977, 91 Stat. 213; Pub. L. 95-566, § 2, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 96-49, § 5(a)(1), (2)(A), Aug. 13, 1979, 93 Stat. 351.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-49, § 5(a)(1), substituted "September 30, 1980" for "September 30, 1979".

Subsec. (a)(3)(D). Pub. L. 96-49, § 5(a)(2)(A), added subpar. (D).

1978—Subsec. (a)(3)(B). Pub. L. 95-566, § 2(a), added subd. (iv).

Subsec. (a)(3)(C). Pub. L. 95-566, § 2(b), added last sentence containing (i) to (iii).

Subsec. (b)(3)(B)(i). Pub. L. 95-566, § 2(c), redesignated former subcls. (II), (III) and (IV) as (IV), (V) and (VI), respectively, and added subcls. (I), (II) and (III). Former subcl. (I), which provided for the payment of 75 per centum of any entitlement which exceeded $1,000, was struck out.

Subsec. (b)(5). Pub. L. 95-566, § 2(d), substituted in provisions preceding subpar. (A) "payment" for "payments" and "the fiscal year ending September 30, 1980, if, for such fiscal year" for "any fiscal year ending prior to October 1, 1979, in which", in subpar. (A) "$370,000,000;" for "$130,093,000; and", and in subpar. (B) "$500,000,000" for "$237,400,000".

1977—Subsec. (b)(3)(B). Pub. L. 95-43, § 1(a)(5)(A), added subd. (ii) and redesignated former subds. (ii) to (iv) as subds. (iii) to (v).

Subsec. (b)(4). Pub. L. 95-43, § 1(a)(5)(B), inserted in subpars. (A) and (B) ", at the end of a fiscal year," following "If".

EFFECTIVE DATE OF 1978 AMENDMENT

Section 9 of Pub. L. 95-566, as amended by Pub. L. 96-49, § 16(a), Aug. 13, 1979, 93 Stat. 354, provided that: "The amendments made by this Act [see Short Title of 1978 Amendment note under section 1001 of this title] shall take effect upon enactment [Nov. 1, 1978], except that the amendments made by subsections (a), (b), and (c), of section 2 [amending subsecs. (a)(3)(B), (a)(3)(C), and (b)(3)(B)(i) of this section] shall be effective with respect to periods of enrollment beginning on or after July 1, 1979."

Section 16(b) of Pub. L. 96-49 provided that: "Nothing in the amendment made by this section [substituting "July" for "August" in section 9 of Pub. L. 95-566] shall be construed to authorize the enactment of new budget authority for fiscal years 1979 or 1980."

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

FUNDS FOR ACADEMIC YEAR PAYMENTS

Section 5(a)(2)(B) of Pub. L. 96-49 provided that: "Sections 411(b)(3)(B)(ii) and 411(b)(4)(B) of the Higher Education Act of 1965 [subsecs. (b)(3)(B)(ii) and (b)(4)(B) of this section] shall not apply to funds appropriated for the purpose of making payments under subpart 1 of part A of title IV of such Act [this subpart] for the academic year 1978-1979, and any funds available at the end of that academic year shall remain available through September 30, 1981, for the purpose of making payments under that subpart with respect to entitlements for succeeding academic years."

SUBPART 2—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1070, 1070a, 1070e, 1088b, 1088b-3, 1145c of this title.

§ 1070b. Purpose; authorization of appropriations; initial year payment provisions

[*See main edition for text of* (*a*)]

(b)(1) For the purpose of enabling the Commissioner to make payments to institutions of higher education which have made agreements with the Commissioner in accordance with sec-

tion 1070b-2(b) of this title, for use by such institutions for payments to undergraduate students for the initial academic year of a supplemental grant awarded to them under this subpart, there are authorized to be appropriated $200,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1980. Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (2).

[*See main edition for text of (2) to (4)*]

(As amended Pub. L. 96-49, § 5(a)(3), Aug. 13, 1979, 93 Stat. 352.)

AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1070b-1. Amount and duration of grants

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1070b-2. Selection of recipients; agreements with institutions

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070b, 1088f, 1088f-1 of this title.

§ 1070b-3. Apportionment and allocation of funds; apportionment ratio; State apportionment; consolidation; excess, reapportionment; time for applications; equitable criteria for allocations; payments from allocations

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 3—GRANTS TO STATES FOR STATE STUDENT INCENTIVES

§ 1070c. Purpose; authorization of appropriations; initial awards

[*See main edition for text of (a)*]

(b)(1) There are hereby authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1980, for payments to the States for grants to students who have not previously been awarded such grants.

[*See main edition for text of (2) to (4)*]

(As amended Pub. L. 96-49, § 5(a)(4), Aug. 13, 1979, 93 Stat. 352.)

CODIFICATION

Pub. L. 95-43, § 1(b)(3), June 15, 1977, 91 Stat. 218, corrected an error in the directory language of section 123(a) of Pub. L. 94-482, which amended this section in 1976, without affecting the amendment made thereby.

AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

1976—Subsec. (b)(3). Pub. L. 94-482, § 123(a), included reference to appropriations under par. (2).

§ 1070c-1. Allotment among States

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1070c-2. Payment of grants

[*See main edition for text of (a)*]

(b) Terms and conditions

From a State's allotment under this subpart for any fiscal year the Commissioner is authorized to make payments to such State for paying 50 per centum of the amount of student grants pursuant to a State program which—

[*See main edition for text of (1) to (3)*]

(4) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State;

[*See main edition for text of (5) and (6); (c)*]

(As amended Pub. L. 95-43, § 1(a)(6), June 15, 1977, 91 Stat. 213; Pub. L. 95-566, § 3, Nov. 1, 1978, 92 Stat. 2403.)

AMENDMENTS

1978—Subsec. (b)(4). Pub. L. 95-566 added ", except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State" following "State program".

1977—Subsec. (b)(4). Pub. L. 95-43 substituted "October 1, 1978" for "July 1, 1977".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-566 effective Nov. 1, 1978, see section 9 of Pub. L. 95-566, set out as an Effective Date of 1978 Amendment note under section 1070a of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1070c-3. Administration of State programs; judicial review

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1070c-4. Bonus allotments for programs

Whenever the sum appropriated pursuant to this subpart for any fiscal year is in excess of $75,000,000 the Commissioner shall allot, from 33⅓ per centum of such excess sums, to each State operating through an agency of the State or through a nonprofit private institution or organization designated by a State, a program under section 1078(b) of this title an amount which bears the same ratio to such sum as the number of students in attendance at institutions of higher education in such State bears to the total number of students in such attendance in all such States.

(As amended Pub. L. 95-43, § 1(a)(7), June 15, 1977, 91 Stat. 213.)

AMENDMENTS

1977—Pub. L. 95-43 substituted "operating, through an agency of the State or through a nonprofit private institution or organization designated by a State, a program under section 1078(b) of this title" for "having an agreement under section 1078(b) of this title".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 4—SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

§ 1070d. Program authorization

[*See main edition for text of* (*a*)]

(b) Authorization of appropriations

For the purpose of enabling the Commissioner to carry out this subpart, there are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975, and $200,000,000 for each of the fiscal years ending prior to October 1, 1980.

(As amended Pub. L. 96-49, § 5(a)(5), Aug. 13, 1979, 93 Stat. 352.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1070d-1. Authorized activities

[*See main edition for text of* (*a*)]

(b) Talent Search; Upward Bound; Special Services for Disadvantaged Students; Educational Opportunity Centers; service learning centers at institutions of higher education, etc.

Services provided through grants and contracts under this subpart shall be specifically designed to assist in enabling youths from low-income families who have academic potential, but who may lack adequate secondary school preparation, who may be physically handicapped, or who may be disadvantaged because of severe rural isolation, to enter, continue, or resume programs of postsecondary education, including—

[*See main edition for text of* (*1*) *to* (*5*)]

No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38 shall be deemed ineligible to participate in any program under this subsection by reason of such individual's age. The portion of the cost of any project assisted under clause (4) in the preceding sentence which is borne by the applicant shall represent an increase in expenditure by such applicant for the purposes of such project. Before making a grant or entering into a contract under clause (5) of the first sentence of this subsection the Commissioner may require any institution subject to such a contract or grant to submit an application containing or accompanied by such information, including the ability of that institution to pay the non-Federal share of the costs of the project to be assisted, as is essential to carry out the requirements of that clause.

[*See main edition for text of* (*c*) *to* (*h*)]

(As amended Pub. L. 95-566, § 4, Nov. 1, 1978, 92 Stat. 2403.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-566 added provision following par. (5) directing that no individual who is an eligible veteran be deemed ineligible to participate in any program under this subsection by reason of such individual's age.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-566 effective Nov. 1, 1978, see section 9 of Pub. L. 95-566, set out as an Effective

Date of 1978 Amendment note under section 1070a of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1070d-2. Educational Informational Centers

[*See main edition for text of* (*a*)]

(b) Authorization of appropriations; allocation of funds; criteria

(1) For the purpose of enabling the Commissioner to carry out this subpart, there are authorized to be appropriated $20,000,000 for fiscal year 1977, $30,000,000 for fiscal year 1978, and $40,000,000 for fiscal year 1979, and for the succeeding fiscal year.

[*See main edition for text of* (*2*); (*c*) *to* (*e*)]

(As amended Pub. L. 96-49, § 5(a)(6), Aug. 13, 1979, 93 Stat. 352.)

AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96-49 authorized appropriation of $40,000,000 for fiscal year 1980.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1070d-3. Administration of State programs; procedural requirements

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 6—ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

§ 1070e. Payments to institutions of higher education

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070e-1 of this title; title 38 section 246.

§ 1070e-1. Veterans' cost-of-instruction payments to institutions of higher education; waiver

(a) Eligibility

(1) During the period beginning July 1, 1972, and ending September 30, 1980, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

[*See main edition for text of* (*A*) *and* (*B*); (*2*) *and* (*3*)]

(4) With respect to any academic year beginning on or after July 1, 1978, and ending on or before September 30, 1981, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the number of such recipients in all institutions of higher education for the first such academic year; or

(B) in the event that clause (A) of this paragraph is not satisfied, the Commissioner determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such clause (A), to continue to recruit, enroll, and provide necessary services to veterans.

[*See main edition for text of* (*b*) *to* (*g*)]

(As amended Pub. L. 95-336, § 6(a), Aug. 4, 1978, 92 Stat. 453; Pub. L. 96-49, § 5(a)(7), Aug. 13, 1979, 93 Stat. 352.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-49, § 5(a)(7)(A), substituted "September 30, 1980" for "September 30, 1979".

Subsec. (a)(4). Pub. L. 96-49, § 5(a)(7)(B), substituted "September 30, 1981" for "September 30, 1980".

1978—Subsec. (a)(4). Pub. L. 95-336 added par. (4).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 6(c) of Pub. L. 95-336 provided that: "The amendments made by this section [amending this section and section 246 of Title 38, Veterans' Benefits] shall be effective with respect to payments to which institutions are entitled as of June 30, 1978."

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

ADMINISTRATION OF VETERANS' COST-OF-INSTRUCTION PROGRAM; TRANSFER FROM COMMISSIONER OF EDUCATION TO ADMINISTRATOR OF VETERANS' AFFAIRS

For provisions authorizing the transfer of the programs carried out under this section from the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, over to the Administrator of Veterans' Affairs, the transfer of funds in connection with the transfer, and the supersedure of this section as of the date of the transfer, see section 310(a) and (b) of Pub. L. 95-202, set out as notes under section 246 of Title 38, Veterans' Benefits.

Part B—Federal, State, and Private Programs of Low-Interest Insured Loans to Students in Institutions of Higher Education

§ 1071. General provisions

(a) Statement of purpose

The purpose of this part is to enable the Commissioner (1) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 1085 of this title), (2) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 1078(b) of this title, (3) to pay a portion of the interest on loans to qualified students which are made by a State under a direct loan program meeting the requirements of section 1078(a)(1)(B) of this title, or which are insured under this part or under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 1078(a)(1)(C) of this title, and (4) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 1078(a)(1)(C) of this title.

(b) Authorization of appropriations

For the purpose of carrying out this part—

[*See main edition for text of* (*1*) *and* (*2*)]

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 1072 of this title for the reserve funds of State and nonprofit private student loan insurance programs,

[*See main edition for text of* (*4*) *and* (*5*)]

Sums appropriated under clauses (1), (2), (4), and (5) of this subsection shall remain available until expended, and sums appropriated under clause (3) of this subsection shall remain available for advances under section 1072 of this title until the close of the fiscal year ending June 30, 1968.

(c) Implementation requirements

For purposes of carrying out this part—

(1) the Commissioner shall develop and execute a plan designed to encourage the establishment of student loan insurance program by each State (whether operated by an agency of the State or by a nonprofit private institution or organization designated by the state) which does not have such a program covered by an agreement pursuant to section 1078(b) of this title;

[*See main edition for text of* (*2*) *and* (*3*)]

(As amended Pub. L. 95-43, § 1(a)(8)-(10), June 15, 1977, 91 Stat. 213.)

Amendments

1977—Subsec. (a). Pub. L. 95-43, § 1(a)(8), substituted in cl. (3) reference to "section 1078(a)(1)(C) of this title" for "section 1078(c)(1)(A) of this title".

Subsec. (b)(3). Pub. L. 95-43, § 1(a)(9), correcting an error in Pub. L. 94-482, substituted a comma for the period appearing at the end of the text.

Subsec. (c)(1). Pub. L. 95-43, § 1(a)(10), inserted following "by each State" the parenthetical text "(whether operated by an agency of the State or by a nonprofit private institution or organization designated by the State)".

Effective Date of 1977 Amendment

Section 2 of Pub. L. 95-43 provided that:

"(a) Except as provided in subsection (b), the amendments made by the first section of this Act [to sections 1003 to 1005, 1015b, 1070a, 1070c-2, 1070c-4, 1087dd, 1088b, 1088f-1, 1119a-1, 1132d-11, and 1132e of this title] shall take effect October 12, 1976.

"(b)(1) Except as provided in paragraph (2), amendments made by the first section of this Act to part B of title IV of the Higher Education Act of 1965 [this part] shall take effect as provided by subsection (b) of section 127 of the Education Amendments of 1976, as amended by this Act [set out as an Effective Date of 1976 Amendment note below], and shall, for purposes of such subsection, collectively be deemed to be an amendment made by subsection (a) of such section [to part B].

"(2) The amendments made by paragraphs (17), (20), and (21)(D) of subsection (a) of the first section of this Act [to sections 1075(a)(1), 1078(a)(9), and 1078(b)(1)(A) of this title] shall take effect thirty days after the date of its enactment [June 15, 1977]. No determination made pursuant to section 428(a)(9) of the Higher Education Act of 1965 [section 1078(a)(9) of this title] as in effect between September 30, 1976, and such thirtieth day after enactment of this Act [June 15, 1977] shall be invalid if such determination, at a minimum, complies with such section [section 1078(a)(9) of this title] as amended by such paragraph (20)."

Effective Date of 1976 Amendment

Section 127(b) of Pub. L. 94-482, as amended by Pub. L. 95-43, § 1(b)(4), June 25, 1977, 91 Stat. 218, provided that: "The amendment made by subsection (a) of this section of this Act [amending this part] shall become effective October 1, 1976, except as otherwise provided therein, and to the extent such amendment makes changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendment becomes effective, except that—

"(1) The changes made in—

"(A) sections 425(a) [section 1075(a) of this title] (other than paragraphs (1) (A) and (B) thereof) and 428(b)(1)(A) [section 1078(b)(1)(A) of this title] other than divisions (i) and (ii) thereof, and sections 427(a)(1)(C) and 428(b)(1)(B) [sections 1077(a)(1)(C) and 1078(b)(1)(B) of this title] shall become applicable with respect to loans to cover the costs of education for periods of enrollment beginning on or after October 1, 1976;

"(B) sections 425(a)(1)(A) and (B) and 428(b)(1)(A)(i) and (ii) [sections 1075(a)(1)(A) and (B) and 1078(b)(1)(A)(i) and (ii) of this title] shall become applicable with respect to loans made on or after February 12, 1977, to cover such costs for such periods beginning on or after November 12, 1976;

"(C) sections 427(a)(2)(G) and (H) and 428(b)(1)(N), (O), and (P) [sections 1077(a)(2)(G) and (H) and 1078(b)(1)(N), (O), and (P) of this title] shall become applicable with respect to loans made on or after June 1, 1977;

[*See main edition for text of* (*2*) *to* (*4*)]

"(5) the new section 433 [section 1083 of this title] shall become effective with respect to loans made on or after February 12, 1977, to cover the costs of education for periods of enrollment beginning on or after November 12, 1976;

[*See main edition for text of* (6) *and* (7)]

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1072. Advances to establish or strengthen reserve funds of State and nonprofit private loan insurance programs

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Guaranty agreements as authorizing advances to States; determination of amount; reductions; repayment of advances; general requirements for advances

[*See main edition for text of* (*1*)]

(2)(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 per centum of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by (i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date, and (ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a) of this section. Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

[*See main edition for text of* (*C*)]

(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

[*See main edition for text of* (*3*) *and* (*4*)]

(5) Advances pursuant to this subsection shall be made to a State—

(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 1078(b) of this title which was entered into before October 12, 1976, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the two succeeding calendar years after the date so requested; and

(B) in the case of a State which enters into an agreement pursuant to section 1078(b) of this title on or after October 12, 1976, or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the four succeeding calendar years after the date so requested of the advance.

(6) [*See main edition for text of* (*A*)]

(B) The Commissioner may enter into an agreement with a private nonprofit institution or organization for purposes of this paragraph under which such institution or organization—

[*See main edition for text of* (*i*) *and* (*ii*)]

(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

(As amended Pub. L. 95-43, § 1(a)(11)-(13), June 15, 1977, 91 Stat. 213, 214; Pub. L. 95-561, title XIII, § 1322(a), Nov. 1, 1978, 92 Stat. 2363.)

AMENDMENTS

1978—Subsec. (c)(5). Pub. L. 95-561 substituted "October 12, 1976," for "the effective date of this subsection" in subpars. (A) and (B).

1977—Subsec. (c)(2). Pub. L. 95-43, § 1(a)(11)(A) to (C), in subpar. (A), struck out "the greater of (i) $50,000, or (ii)" following "equal to" and inserted following "10 per centum of the principal amount" the phrase "of loans made by lenders and"; in subpar. (B) prescribed a minimum sum of $50,000 as the amount of any advance to a State; and added subpar. (D).

Subsec. (c)(5)(B). Pub. L. 95-43, § 1(a)(12), inserted following "effective date of this subsection" text reading "or which is not actively carrying on a program under an agreement pursuant to such section on such date".

Subsec. (c)(6)(B)(iii). Pub. L. 95-43, § 1(a)(13), inserted "eligible" preceding "institution" in two instances.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1322(b) of Pub. L. 95-561 provided that: "The amendments made by subsection (a) of this section [amending subsec. (c)(5) of this section] shall take effect on October 1, 1977."

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain

offices and positions, see sections 3441 and 3503 of this title.

§ 1073. Limitations on participation in Federal loan insurance programs

[See main edition for text of (a)]

(b) Conditions authorizing issuance of certificates of insurance

The Commissioner may issue certificates of insurance under section 1079 of this title to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of his residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 1072 of this title for the benefit of students in such State),

(2) for insurance of all of the loans made to student borrowers by a lender who satisfies the Commissioner that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loan such lender intends to make to such student borrowers, or

(3) under such circumstances as may be approved by the State or nonprofit private institution or organization in such State with which the Commissioner has an agreement under section 1078(b) of this title, for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

[See main edition for text of (c)]

(As amended Pub. L. 95-43, § 1(a)(14), June 15, 1977, 91 Stat. 214.)

AMENDMENTS

1977—Subsec. (b)(3). Pub. L. 95-43 added par. (3).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1074. Total principal amount of new loans under Federal loan insurance program; duration of program; assignment and reassignment of Federal loan insurance quotas

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1075. Federal loan insurance limitations

(a) Maximum annual insurable loan; maximum aggregate insured unpaid principal amount

(1) The total of loans made to a student in any academic year or its equivalent (as determined by the Commissioner) which may be covered by Federal loan insurance under this part may not exceed $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except—

(A) that in the case of loans to a student for his first academic year of a program of postsecondary education, and who has not previously enrolled in such a program, which are made by an eligible lender as described in section 1085(g)(1)(D) of this title or which are made or originated (as defined in section 1083(b) of this title) by an eligible institution, the total of such loans may not exceed the lesser of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with the provisions of section 1078(a)(2)(B)(i) of this title).

(B) that in the case of a loan made or originated (as defined in section 1083(b) of this title) by an eligible institution which is made to such a first-year student, the loan may exceed $1,500 only if it is to be disbursed in two or more installments none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

(C) in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high cost of education.

The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit. For the purpose of clause (B), all loans made within any period of 90 days shall be considered a single loan.

[See main edition for text of (2); (b)]

(As amended Pub. L. 95-43, § 1(a)(15)-(17), June 15, 1977, 91 Stat. 214; Pub. L. 95-566, § 5(b)(2), Nov. 1, 1978, 92 Stat. 2403.)

AMENDMENTS

1978—Subsec. (a)(1)(A). Pub. L. 95-566 substituted "section 1078(a)(2)(B)(i)" for "section 1078(a)(2)(C)(i)".

1977—Subsec. (a)(1). Pub. L. 95-43, § 1(a)(15)(17), substituted in cl. (A) "loans to a student for his first academic year of a program of postsecondary education" for "a loan to a student who is or will be in his first year of a program of undergraduate education", "program, which are" for "program which is", "or which are" for "or which is", and "the total of such loans" for "the loan"; substituted in cl. (B) "to such a first-year student" for "to a student for his first academic year of postsecondary education"; and added end sentence for consideration as a single loan all loans made within any period of 90 days for the purpose of cl. (B).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-566 effective Nov. 1, 1978, see section 9 of Pub. L. 95-566, set out as an Effective Date of 1978 Amendment note under section 1070a of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43, other than par. (17) thereof, deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

Amendment of subsec. (a)(1) by section 1(a)(17) of Pub. L. 95-43 effective thirty days after June 15, 1977, see section 2(b)(2) of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective Oct. 1, 1976, and to the extent amendment makes changes in this part which affect student loans, such changes to apply to outstanding loans as well as to loans made after the amendment becomes effective, except that the changes made in subsec. (a) (other than pars. (1)(A) and (B)) shall become applicable to loans to cover the costs of education for periods of enrollment beginning on or after Oct. 1, 1976, and the changes made in pars. (1)(A) and (B) of subsec. (a) shall become applicable to loans made on or after Feb. 12, 1977, to cover such costs for such periods beginning on or after Nov. 12, 1976, see section 127(b) of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1076. Insurability of loans made from funds owned by lender or held by lender in trust

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1077. Conditions for Federal loan insurance

(a) Student eligibility; terms of loans

A loan by an eligible lender shall be insurable by the Commissioner under the provisions of this part only if—

[*See main edition for text of* (*1*)]

(2) evidenced by a note or other written agreement which—

[*See main edition for text of* (*A*) *and* (*B*)]

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an "eligible institution", is pursuing a course of study pursuant to a graduate fellowship program approved by the Commissioner, or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, [22 U.S.C. 2501 et seq.], (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4951 et seq.], or (v) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment, and any such period shall not be included in determining the ten-year period or the fifteen-year period provided in clause (B) above,

[*See main edition for text of* (*D*)]

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Commissioner under this part, and that the lender will enter into such agreements with the Commissioner as may be necessary for the purposes of section 1087 of this title,

[*See main edition for text of* (*F*)]

(G) provides that, in the case of each loan insured by the program, the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan, and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower,

[*See main edition for text of* (*H*) *and* (*I*); (*b*) *and* (*c*)]

(As amended Pub. L. 95-43, § 1(a)(9), (18), June 15, 1977, 91 Stat. 213, 214; Pub. L. 95-566, § 5(a)(1), Nov. 1, 1978, 92 Stat. 2403.)

AMENDMENTS

1978—Subsec. (a)(2)(C)(i). Pub. L. 95-566 struck out "or" following "'eligible institution'," and added "or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner," following "Commissioner,".

1977—Subsec. (a)(2)(E). Pub. L. 95-43, § 1(a)(9), correcting an error in Pub. L. 94-482, substituted a comma for the period appearing at the end of the text.

Subsec. (a)(2)(G). Pub. L. 95-43, § 1(a)(18), correcting an error in Pub. L. 94-482, substituted a comma for the semicolon appearing at the end of the text.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-566 effective Nov. 1, 1978, see section 9 of Pub. L. 95-566, set out as an Effective Date of 1978 Amendment note under section 1070a of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective Oct. 1, 1976, and to the extent amendment makes changes in this part which affect student loans, such changes to apply to outstanding loans as well as to loans made after the amendment becomes effective, except that the changes made in subsec. (a)(1)(C) shall become applicable to loans to cover the costs of education for periods of enrollment beginning on or after Oct. 1, 1976, and the changes made in subsec. (a)(2)(G) and (H) shall become applicable to loans made on or after June 1, 1977, see section 127(b) of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1078. Federal interest subsidy payments

(a) Eligibility; amount; time and manner of payment; statements required by Commissioner from loan holders; prohibition against subsidizing certain loans; eligible lenders

[*See main edition for text of* (*1*)]

(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by the institution), which—

(i) sets forth such student's estimated cost of attendance, and

(ii) sets forth such student's estimated financial assistance.

(B) For the purposes of paragraph (1) and this paragraph—

(i) a student's estimated cost of attendance means, for the period for which the loan is sought, the tuition and fees applicable to such student together with the institution's estimate of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable commuting costs, and costs for books;

(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under parts A of this subchapter, C of subchapter I of chapter 34 of title 42, and D of this subchapter, plus other scholarship, grant, or loan assistance;

(iii) the term "eligible institution" when used with respect to a student is the eligible institution at which the student has been accepted for enrollment or, in the case of a student who is in attendance at such an institution, at which the student is in good standing (as determined by such institution).

[*See main edition for text of* (*3*) *to* (*7*)]

(8)(A) In the case of any eligible lender (other than an eligible institution or an agency or instrumentality of a State), which is approved by the Commissioner pursuant to subparagraph (B) of this paragraph for the purpose of authorizing multiple disbursements and which enters into a binding agreement with a student to make a loan—

(i) for which the student is entitled to have a portion of the interest paid on his behalf under this section, and

(ii) the proceeds of which loan are to be paid to the student in multiple disbursements over the period of enrollment for which the loan is made, but not to exceed twelve months,

the amount of the interest payment and the amount of any special allowance payment to be paid under section 1087-1 of this title shall be determined as if the entire amount to be made available for that period of enrollment had been disbursed on the date on which the first installment thereof was disbursed, and any increase in the rate of interest on the loan attributable to such multiple disbursements shall not be deemed to violate any provision of this part relating to the maximum rate of interest on such loan. The provisions of this paragraph shall apply only in the case of loans paid in multiple disbursements, in accordance with regulations of the Commissioner, based on the need of the student for the proceeds of such loan over the course period of enrollment for which the loan is made.

[*See main edition for text of* (*B*)]

(C) If the Commissioner has not promulgated regulations pursuant to this paragraph on or before September 30, 1979, all eligible lenders (other than those excluded under subparagraph (A)) shall be deemed approved by the Commissioner for purposes of this paragraph.

(9) Repealed. Pub. L. 95-566, § 5(b)(4), Nov. 1, 1978, 92 Stat. 2403.

(b) Agreements with State and nonprofit private institutions for subsidy payments on loans insured under student loan insurance program of such State or institution; standards for student loan insurance program; required provisions of agreement

(1) Any State or any nonprofit private institution or organization may enter into an agreement with the Commissioner for the purpose of

entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) of this section if the Commissioner determines that the student loan insurance program—

(A) authorizes the insurance in any academic year or its equivalent (as determined under regulations of the Commissioner) of not less than $1,000 nor more than $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except—

(i) that the program may not authorize the insurance of loans which are made by an eligible lender as described in section 1085(g)(1)(D) of this title or which are made or originated (as defined in section 1083(b) of this title) by an eligible institution to a student for his first academic year of a program of postsecondary education, and who has not previously enrolled in such a program, in an amount in excess of the lesser of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with subsection (a)(2)(B)(i) of this section),

(ii) that the program may not authorize the insurance of a loan in excess of $1,500 for an academic year which is made or originated (as defined in section 1083(b) of this title) by an eligible institution, and is made to such a first-year student, unless the loan is to be disbursed in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

[*See main edition for text of* (*iii*)]

but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit, and all loans issued within any period of 90 days shall be considered as a single loan for purposes of division (ii);

[*See main edition for text of* (*B*) *to* (*L*)]

(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Commissioner, or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.], (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4951 et seq.], or (v) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

[*See main edition for text of* (*N*)]

(O) provides that funds borrowed by a student are disbursed by check payable to the order and requiring the endorsement of such student; and

(P) requires the borrower to promptly notify the holder of the loan concerning any change of address.

[*See main edition for text of* (*2*)]

(c) Federal guaranty and supplementary guaranty of student loans insured under non-Federal programs; amount of reimbursement; exceptions; amount of loans in repayment; provisions of guaranty agreement; definitions; additional eligible agreements; equitable share of payments by Commissioner; maximum amount payable in any fiscal year

(1) [*See main edition for text of* (*A*) *and* (*B*)]

(C) For purposes of this subsection, the amount of loans of a State or nonprofit private institution or organization which are in repayment shall be the original principal amount of loans made by a lender which are insured by such an institution or organization reduced by (i) the amount the insurer has been required to pay to discharge its insurance obligations under this part, (ii) the original principal amount of loans insured by it which have been fully repaid, and (iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to subsection (b)(1)(M) of this section.

[*See main edition for text of* (*2*) *to* (*4*)]

(5) In the case of any guaranty agreement, with a State or nonprofit private institution or organization with which the Commissioner has an agreement pursuant to subsection (b) of this section, the Commissioner may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such State, institution, or organization and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6)(A) For the purpose of paragraph (2)(D) and for the purpose of section 1078-1(b)(5) of this title the Commissioner's equitable share of payments made by the borrower shall be that portion of the payments remaining after the State or the nonprofit private institution or organization with which the Commissioner has an agreement under this subsection has deducted from such payments (i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan and (ii) an amount equal to the administrative costs of collection of loans reimbursed under this section and the administrative costs of preclaims assistance for default prevention (as such terms are defined in subparagraph (B) of this subsection), to the extent such costs do not exceed 30 per centum of such payments and have not been reimbursed under subsection (f) of this section.

(B) For the purpose of this paragraph, the term—

(i) "administrative costs of collection of loans" means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable and

[*See main edition for text of* (*ii*)]

subject to such additional criteria as the Commissioner may by regulation prescribe.

(7)(A) Notwithstanding paragraph (1)(B), the amount to be paid a State or a nonprofit private institution or organization for any fiscal year—

(i) which begins on or after the effective date of this paragraph; and

(ii) which is either the fiscal year in which such State, institution, or organization begins to actively carry on a student loan insurance program which is subject to a guarantee agreement under subsection (b) of this section, or is one of the four succeeding fiscal years,

shall be 100 per centum of the amount expended by such State, organization, or institution in discharge of its insurance obligation insured under such program.

[*See main edition for text of* (*B*); (*d*) *and* (*e*)]

(f) Special payments to States and nonprofit private institutions under guaranty and supplementary guaranty agreements for administrative costs, etc.; determination of amounts; requirements for expenditures; definitions; prerequisites

(1) [*See main edition for text of* (*A*)]

(B) Except as provided in subparagraph (C), each State or nonprofit private institution or organization to which subparagraph (A) of this paragraph applies shall spend not less than ¼ of the payments received pursuant to this paragraph on the purposes described in clause (i) or subparagraph (A), not less than ½ of such payments on the purposes described in clauses (ii) and (iii) of subparagraph (A), and the remaining amount of such payments on the purpose described in clause (iv) of such subparagraph.

(C) For any State which is eligible to receive a reserve fund advance under section 1072(c)(5)(B) of this title, the spending minimum required by subparagraph (B) with respect to purposes described in clauses (ii) and (iii) of subparagraph (A) shall, for the first year of such eligibility, not be applicable and shall, for the second and third years of such eligibility, be an amount equal to 20 per centum of the payments received under this paragraph.

(2) The Commissioner is authorized to make payments in accordance with the provisions of this paragraph to any State or any nonprofit private institution or organization with which he has a supplemental guaranty agreement under section 1078-1(a)(2) of this title for the purposes of—

(i) the administrative costs of promotion of commercial lender participation;

(ii) the administrative costs of collection of loans;

(iii) the administrative costs of preclaims assistance for default prevention; or

(iv) other such costs related to the student loan insurance program subject to such agreement.

The total amount of payments for any fiscal year made under this paragraph shall not exceed an additional one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. If the sums appropriated for any fiscal year for making payments under this paragraph are not sufficient to pay in full the amounts provided for which such States, institutions, and organizations are eligible, then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) For the purpose of this subsection, the term—

(A) "administrative costs of promotion of commercial lender participation" means any administrative costs incurred by an insurer which are directly related to supervising, training, or informing eligible lenders or prospective eligible lenders or inducing such lenders to improve or expand their program participation, and such costs may include (i) the cost of planning and executing instructional seminars and the costs of attending other meetings with lenders, (ii) the costs of obtaining or producing instructional or promotional materials or equipment for distribution to, or use with, lenders, (iii) postage costs associated with the distribution of instructional or promotional materials to lenders, (iv) an appropriate share of the costs of establishing branch offices to serve the needs of lenders which are geographically distant from such insurer's primary business location, and (v) an appropriate share of the compensation of personnel whose primary responsibility is the training, supervising, or recruiting of lenders, but not including personnel whose primary responsibilities are the performing or supervising such duties as relate to the routine processing of borrower applications for loans or the maintenance of supporting records but in no case shall any such costs include any overhead expenses of such insurer associated with the insurer's primary business location,

[*See main edition for text of (B) and (C)*]

subject to such additional criteria as the Commissioner may by regulation prescribe.

[*See main edition for text of (4)*]

(g) Applications for agreements or supplementary agreements by nonprofit private institutions in States without agreements; procedural requirements

If a nonprofit private institution or organization (1) applies to enter into an agreement with the Commissioner under subsections (b) and (c) of this section with respect to a student loan insurance program to be carried on in a State with which the Commissioner does not have an agreement under subsection (b) of this section, and (2) as provided in the application, undertakes to meet the requirements of section 1072(c)(6)(B)(i), (ii), and (iii) of this title, the Commissioner shall consider and act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of his actions.

(As amended Pub. L. 95-43, § 1(a)(19)-(29), June 15, 1977, 91 Stat. 214-216; Pub. L. 95-566, § 5(a)(2), (b)(1), (3)-(5), Nov. 1, 1978, 92 Stat. 2403; S. Res. 30, Mar. 7, 1979; Pub. L. 96-49, § 5(b), Aug. 13, 1979, 93 Stat. 352.)

AMENDMENTS

1979—Subsec. (a)(8)(C). Pub. L. 96-49 added subpar. (C).

1978—Subsec. (a)(2)(A). Pub. L. 95-566, § 5(b)(1)(A), struck out provision directing that each student qualifying for a portion of an interest payment under par. (1) meet the requirements of former subpar. (B).

Subsec. (a)(2)(B). Pub. L. 95-566, § 5(b)(1)(A), (B), (3), redesignated former subpar. (C) as (B) and, as so redesignated, struck out cl. (iv) which defined how an institution of postsecondary education was to determine a student's need for a guaranteed loan. Former subpar. (B), which specified that a student qualified for interest subsidy only if his or her adjusted family income was less than $25,000, or his or her postsecondary education institution determined that the student had an amount of need and recommended borrowing that amount, was struck out.

Subsec. (a)(2)(C). Pub. L. 95-566, § 5(b)(1)(B), redesignated former subpar. (C) as (B).

Subsec. (a)(2)(D). Pub. L. 95-566, § 5(b)(1)(B), struck out subpar. (D) which related to the determination of the adjusted family income of a student pursuant to regulations of the Commissioner and to the finality of such determination of need insofar as it concerned the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan.

Subsec. (a)(9). Pub. L. 95-566, § 5(b)(4), struck out par. (9) which established procedures for determining whether a loan was qualified for interest subsidy payments if the borrower was attending an institution not located in a State.

Subsec. (b)(1)(A)(i). Pub. L. 95-566, § 5(b)(5), substituted "subsection (a)(2)(B)(i) of this section" for "subsection (a)(2)(C)(i) of this section".

Subsec. (b)(1)(M)(i). Pub. L. 95-566, § 5(a)(2), struck out "or" following "eligible institution," and added "or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner," following "Commissioner,".

1977—Subsec. (a)(8)(A). Pub. L. 95-43, § 1(a)(19), substituted in the last sentence "over the period of enrollment for which the loan is made" for "over the course of the academic year".

Subsec. (a)(9). Pub. L. 95-43, § 1(a)(20), substituted "for which a determination must be made as to whether" for "for which", "the determination to be made" for "the determinations to be made (except the determinations of good standing)", and "paragraph (2)(B)(ii) of this subsection" for "paragraph (2)(A)(i) and (2)(B)(ii) of this subsection".

Subsec. (b)(1). Pub. L. 95-43, § 1(a)(21), (22), inserted in subpar. (A), following "authorizes the insurance" the words "in any academic year or its equivalent (as determined under regulations of the Commissioner)", substituted in subpar. (A), div. (i), "loans which are made" for "a loan which is made", "or which are" for "or which is", and "to a student for his first academic year of a program of postsecondary education, and who has not previously enrolled in such a program, in an amount in excess of the lesser" for "to a student who has not successfully completed a program of undergraduate education in an amount in excess", substituted in subpar. (A), div. (ii), "to such a first-year student" for "to a student for his first academic year of postsecondary education", and provided in the end text of subpar. (A) that all loans issued within any period of 90 days shall be considered as a single loan for purposes of div. (ii); and struck out subpar. "(P) provides that the borrower shall, within four months after ceasing to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, contact the holder of his loan to negotiate the terms of his repayment obligations," and redesignated former subpar. (Q) as (P).

Subsec. (c)(1)(C). Pub. L. 95-43, § 1(a)(23) substituted "made by a lender which are insured by such an institution or organization" for "insured by it" and struck out cl. "(iv) the original principal amount of loans repaid by the Commissioner under section 1087 of this title".

Subsec. (c)(5). Pub. L. 95-43, § 1(a)(24) struck out "entered into prior to September 1, 1969" following "In the case of any guaranty agreement" and substituted "an agreement pursuant to subsection (b) of this section" for "in effect on that date an agreement pursuant to subsection (b) of this section, or section 988(b) of this title, made prior to August 3, 1968".

Subsec. (c)(6). Pub. L. 95-43, § 1(a)(25), inserted in subpar. (A) following "For the purpose of paragraph (2)(D)" the words "and for the purpose of section 1078—1(b)(5) of this title" and struck out "pursuant to such paragraph" following "by the borrower"; substituted in subpar. (A), cl. (ii), "of loans reimbursed under this subsection and the administrative costs of preclaims assistance for default prevention (as such terms are defined in subparagraph (B) of this subsection, to the extent such costs do not exceed 30 per centum of such payments and have not been reimbursed under subsection (f) of this section" for "of the loan and the administrative costs of preclaims assistance for default prevention (as such terms are defined in subparagraph (B) of this subsection) reimbursed pursuant to subsection (f) of this section, to the extent such costs do not exceed 30 per centum of such payments"; and substituted in subpar. (B), cl. (i), "costs of collection of loans" for "costs of collection of the loan".

Subsec. (c)(7)(A)(ii). Pub. L. 95-43, § 1(a)(26), substituted "guarantee agreement under subsection (b) of this section" for "guarantee agreement under this subsection".

Subsec. (f)(1). Pub. L. 95-43, § 1(a)(27), substituted in subpar. (B) introductory text "Except as provided in subparagraph (C), each State" for "Each State" and added subpar. (C).

Subsec. (f)(2). Pub. L. 95-43, § 1(a)(28), redesignated subpar. (A) as the complete par. (2) and struck out subpar. "(B) The provisions of subparagraph (B) of paragraph (1) shall apply to any payments made under subparagraph (A) of this paragraph."

Subsec. (f)(3)(A). Pub. L. 95-43, § 1(a)(29), correcting an error in Pub. L. 94-482, substituted a comma for the period appearing at the end of the text.

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-566 effective Nov. 1, 1978, see section 9 of Pub. L. 95-566, set out as an Effective Date of 1978 Amendment note under section 1070a of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43, other than pars. (20) and (21)(D) thereof, deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

Amendment of subsec. (a)(9) by section 1(a)(20) of Pub. L. 95-43 effective thirty days after June 15, 1977, but determinations made pursuant to subsec. (a)(9), as in effect between Sept. 30, 1976, and the thirtieth day after June 15, 1977, as valid if determinations comply with subsec. (a)(9), as amended by section (a)(20) of Pub. L. 95-43; and amendment of subsec. (b)(1)(A) by section 1(a)(21)(D) of Pub. L. 95-43 effective thirty days after June 15, 1977, see section 2(b)(2) of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective Oct. 1, 1976, and to the extent amendment makes changes in this part which affect student loans, such changes to apply to outstanding loans as well as to loans made after the amendment becomes effective, except that the changes made in subsec. (b)(1)(A) other than divisions (i) and (ii) and (b)(1)(B) shall become applicable to loans to cover the costs of education for periods of enrollment beginning on or after Oct. 1, 1976, the changes made in subsec. (b)(1)(A)(i) and (ii) shall become applicable to loans made on or after Feb. 12, 1977, to cover such costs for such periods beginning on or after Nov. 12, 1976, and the changes made in subsec. (b)(1)(N), (O), and (P) shall become applicable to loans made on or after June 1, 1977, see section 127(b) of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070c-4, 1071, 1072, 1073, 1075, 1078-1, 1080, 1081, 1082, 1084, 1085, 1087, 1087-1, 1087-2, 1088b-1 of this title.

§ 1078-1. Student loan insurance programs

(a) Supplemental guaranty agreements for reimbursement

(1) The Commissioner may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 1078(c)(1) of this title whereby the Commissioner shall undertake to reimburse the State or nonprofit private institution or organization, under such terms and conditions as he may establish, in an amount determined in accordance with section 1078(c)(1)(B) of this title, if the Commissioner determines that the student loan insurance program—

(A) authorizes the insurance of loans in any amount up to a maximum of $2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student) to any individual student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Commissioner) in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of $7,500 in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part, made to such person before he became a graduate or professional student);

[*See main edition for text of* (*B*)]

(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization;

[*See main edition for text of* (*D*) *to* (*F*)]

(2) The Commissioner may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 1078(c)(1) of this title for the purpose of qualifying such State or nonprofit private institution or organization for payment of administrative cost allowances under section 1078(f)(2) of this title if the Commissioner determines that the student loan insurance program—

(A) authorizes the insurance of loans in any amount up to a maximum of $2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student) to any individual student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Commissioner) in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of $7,500 in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part, made to such person before he became a graduate or professional student);

[*See main edition for text of* (*B*)]

(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization;

[*See main edition for text of* (*D*) *to* (*F*)]

(b) Terms and conditions

Each supplemental guaranty agreement entered into under subsection (a) of this section—

[*See main edition for text of* (*1*) *to* (*4*)]

(5) shall provide that if, after the Commissioner has made payment under the supplemental guaranty agreement pursuant to this section with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Commissioner), there shall be paid over to the Commissioner (for deposit in the fund established by section 1081 of this title) such portion of the amount of such payments as is determined (in accordance with regulations prescribed by the Commissioner consistent with section 1078(c)(6) of this title) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary: *Provided*, That, except as the Commissioner may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan; and

[*See main edition for text of* (*6*); (*c*)]

(As amended Pub. L. 95-43, § 1(a)(30)-(32), June 15, 1977, 91 Stat. 216.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-43, § 1(a)(30), (31), inserted in pars. (1)(A) and (2)(A) "who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Commissioner)" after "to any individual student" and "not" preceding "successfully completed" and substituted as cl. (C) in pars. (1) and (2) "(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization" for "(C) provides for the insurance of loans for part-time [parttime] (so stated in par. (2)(C)) study at an eligible institution in the same manner as is provided under the Federal student loan insurance program".

Subsec. (b)(5). Pub. L. 95-43, § 1(a)(32), inserted within the parentheses after "regulations prescribed by the Commissioner" the phrase "consistent with section 1078(c)(6) of this title".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1079. Certificates of Federal loan insurance

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1080. Default of student borrower under Federal loan insurance program

(a) Notification of Commissioner; payment of amount of loss; collection standards

Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Commissioner, and the Commissioner shall if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The "amount of the loss" on any loan shall, for the purposes of this subsection and subsection (b) of this section, be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Commissioner) to the date on which payment is authorized by the Commissioner, reduced to the extent required by section 1075(b) of this title. Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan.

[*See main edition for text of* (*b*) *to* (*e*)]

(As amended Pub. L. 95-43, § 1(a)(33), June 15, 1977, 91 Stat. 216.)

Amendments

1977—Subsec. (a). Pub. L. 95-43 substituted "accrued interest, including interest accruing" for "interest accrued".

Effective Date of 1977 Amendment

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1075, 1078, 1078-1, 1079, 1085 of this title.

§§ 1081, 1082

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1083. Institutional lenders

(a) [*See main edition for text of* (*1*)]

(2) Whenever the Commissioner determines that the termination of the eligible institution's status as a lender under clause (A) of paragraph (1) would be a hardship to the present or prospective students of the eligible institution after considering the management of that institution, the opportunities that institution provides to economically disadvantaged students, and related factors, the Commissioner shall waive the provisions of such paragraph with respect to that institution.

[*See main edition for text of* (*b*)]

(As amended Pub. L. 95-43, § 1(a)(34), June 15, 1977, 91 Stat. 216.)

Amendments

1977—Subsec. (a)(2). Pub. L. 95-43 substituted "clause (A) of paragraph (1)" for "paragraph (1)".

Effective Date of 1977 Amendment

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, except that the new provisions of this section shall become effective to loans made on or after Feb. 12, 1977, to cover the costs of education for periods of enrollment beginning on or after Nov. 12, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-482 effective Oct. 1, 1976, and to the extent amendment makes changes in this part which affect student loans, such changes to apply to outstanding loans as well as to loans made after the amendment becomes effective, except that the new provisions of this section shall become effective to loans made on or after Feb. 12, 1977, to cover the costs of education for periods of enrollment beginning on or after Nov. 12, 1976, see section 127(b) of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1071 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1085. Definitions for student loan insurance program

As used in this part:

[*See main edition for text of* (*a*) *to* (*f*)]

(g)(1) Except as provided in paragraphs (2), (3), and (4), the term "eligible lender" means—

[*See main edition for text of* (*A*)]

(B) a pension fund as defined in the Employee Retirement Income Security Act [29 U.S.C. 1001 et seq.];

[*See main edition for text of* (*C*) *to* (*F*); (*2*)]

(3) The term eligible lender does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Commissioner determines, after notice and opportunity for a hearing, that for each of two consecutive years 15 per centum or more of the total amount of such loans as are described in section 1078(a)(1) of this title made by the institution with respect to students at that institution and repayable in each such year is in default, as defined in section 1080(e)(2) of this title.

[*See main edition for text of* (*4*); (*h*) *and* (*i*)]

(As amended Pub. L. 95-43, § 1(a)(35), (36), June 15, 1977, 91 Stat. 216.)

References in Text

The Employee Retirement Income Security Act, referred to in subsec. (g)(1)(B), probably means the Employee Retirement Income Security Act of 1974, Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 832, as amended, which is classified principally to chapter 18 (§ 1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

AMENDMENTS

1977—Subsec. (g). Pub. L. 95-43, § 1(a) (35), (36), substituted in par. (1)(B) "Employee" for "Employees" and in par. (3) "the total amount of such loans as are described in section 1078(a)(1) of this title made by the institution" for "the amount of the loan described in section 1078(a)(1) of this title made".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

AUTHORITY FOR LIMITATION, SUSPENSION, OR TERMINATION OF ELIGIBILITY OF INSTITUTION OF HIGHER EDUCATION

Amendment of subsec. (b)(1) of this section by Pub. L. 94-482 was not to be construed to authorize terminating the eligibility of an institution deemed to be an institution of higher education for purposes of this section on Oct. 12, 1976, but the authority of the Commissioner to limit, suspend, or terminate eligibility was also not to be construed as impaired, see section 181(b) of Pub. L. 94-482, set out as a note under section 1141 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1074, 1075, 1078, 1087-2, 1088f-1 of this title; title 42 sections 294d, 2753.

§§ 1086, 1087

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1087-1. Special allowances

[*See main edition for text of* (*a*)]

(b) Computation of special allowance

(1) A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2) Subject to paragraph (4), the special allowance paid pursuant to this subsection shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 3.5 per centum from such average, (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

[*See main edition for text of* (3)]

(4) [*See main edition for text of* (*A*)]

(B) Such daily interest shall be computed at the daily equivalent rate of the special allowance rate computed pursuant to paragraph (2) plus 7 per centum and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Commissioner authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

[*See main edition for text of* (5)]

(6) The Commissioner shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection, subject to the condition that such holder shall submit to the Commissioner, at such time or times and in such manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary and the Commissioner to carry out their functions under this section and to carry out the purposes of this section.

(c) Adoption and amendment of regulations

The Commissioner shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of students. Regulations issued under section 2(a)(6)(B)(ii) of the Emergency Insured Student Loan Act of 1969 shall remain in effect until superseded or amended under this subsection, but no payments shall be made under such Act after the effective date of this section.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for special allowances authorized by this section.

(e) to (g) Omitted

(As amended Pub. L. 95-43, § 1(a)(37), June 15, 1977, 91 Stat. 216; Pub. L. 96-49, § 5(c)(1), Aug. 13, 1979, 93 Stat. 352.)

CODIFICATION

Section as originally enacted by Congress contained two subsec. (b) designations. In the main edition, the second subsec. (b) and subsecs. (c) to (g) were editorially redesignated as subsecs. (c) to (h) in conformance with the probable intent of Congress. This matter was resolved by Pub. L. 95-43 which redesignated the second subsec. (b) as par. (6) of the preceding subsec. (b). Accordingly, subsecs. (d) to (h) in the main edition were editorially redesignated in this supplement as subsecs. (c) to (g) to conform with the original enactment.

Subsecs. (e) to (g) of this section, relating to the establishment of the Committee on Process of Determining Student Loan Special Allowances, appointment of members, and submission of a report to the Speaker of the House of Representatives, were omitted due to the the termination of the Committee 10 days after the submission of the report which was to be submitted no later than Oct. 1, 1977.

Amendments

1979—Subsec. (b)(2). Pub. L. 96-49 struck out subpar. (A) designation and provision making special allowance payment subject to subpars. (B) and (C) and struck out subpar. (B) and (C) which provided for reduction of the special allowance for any twelve-month period during the period ending Sept. 30, 1977, or any such period after Oct. 1, 1977, by reduction of special allowance rate to be paid for the period to the highest one-eighth of 1 per centum rate which would not cause the allowance to exceed 3 or 5 per centum for the respective periods.

1977—Subsec. (b). Pub. L. 95-43 substituted in par. (1), "average unpaid balance of principal" for "unpaid balance of disbursed principal"; added in par. (2)(A), cl. (iv); substituted: in par. (2)(C), "paragraph (4)" for "subparagraph (4)", in par. (4)(B), "paragraph (2)" for "paragraph (3)", and in par. (4)(C), "paragraph" for "subparagraph"; and redesignated as par. (6) another paragraph designated (b), substituting therein "this subsection" for "subsection (a) of this section".

Effective Date of 1979 Amendment

Section 17(a) of Pub. L. 96-49 provided that: "The amendments made by section 5(c) [amending subsec. (b)(2) of this section and enacting the provision set out as a note below] shall take effect on October 1, 1979."

Effective Date of 1977 Amendment

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, except that provisions of this section shall become effective with respect to fiscal quarters beginning after Dec. 31, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Special Allowance Payment

Section 5(c)(2) of Pub. L. 96-49 provided that: "Notwithstanding any other provision of section 438 of the Higher Education Act of 1965 [this section], effective October 1, 1979, the Commissioner shall determine the special allowance pursuant to the provisions of section 438(b)(2) of that Act (as amended by paragraph (1) of this subsection) [subsec. (b)(2) of this section], except with respect to eligible loans held during the third quarter of the calendar year 1979, holders of such loans shall be entitled to a special allowance payment increased by the difference between (A) the special allowance determined with respect to such loans for such quarter under section 438(b)(2) prior to the amendments made by paragraph (1) of this subsection, and (B) the amount which would be determined with respect to such loans for such quarter under section 438(b)(2) as amended."

Section Referred to in Other Sections

This section is referred to in section 1078 of this title; title 26 section 103.

§ 1087-2. Student Loan Marketing Association

[*See main edition for text of* (*a*)]

(b) Creation, duration, location of offices, tax exemption, and advances to assist establishment

(1) There is created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the "Association"). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

[*See main edition for text of* (*2*) *and* (*3*); (*c*) *to* (*n*)]

(As amended Pub. L. 95-43, § 1(a)(38), June 15, 1977, 91 Stat. 217.)

Amendments

1977—Subsec. (b)(1). Pub. L. 95-43 substituted "resident and citizen" for "resident".

Effective Date of 1977 Amendment

Amendment by section 1(a) of Pub. L. 95-43 deemed an amendment by section 127(a) of Pub. L. 94-482, effective Oct. 1, 1976, as provided by section 127(b) of Pub. L. 94-482, as amended by section 1(b)(4) of Pub. L. 95-43, described in Effective Date of 1976 Amendment note hereunder and set out as an Effective Date of 1976 Amendment note under section 1071 of this title, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1087-3. Repealed. Pub. L. 95-598, title III, § 317, Nov. 6, 1978, 92 Stat. 2678

Section, Pub. L. 89-329, title IV, § 439A, as added Pub. L. 94-482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2141, related to a five-year nondischargeability of certain loan debts.

Effective Date of Repeal

Section repealed effective Nov. 6, 1978, see section 402(d) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

§ 1087-3a. Loan as part of expected family contribution

Any loan under this part may be counted as part of the expected family contribution in the determination of need for parts A and D of this subchapter and part C of subchapter I of chapter 34 of title 42, notwithstanding any other provisions of parts A and D of this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89-329, title IV, § 439B, as added Pub. L. 95-566, § 8, Nov. 1, 1978, 92 Stat. 2404.)

Effective Date

Section effective Nov. 1, 1978, see section 9 of Pub. L. 95-566, set out as an Effective Date of 1978 Amendment note under section 1070a of this title.

§ 1087-4. Criminal penalties

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Part D—Direct Loans to Students in Institutions of Higher Education

Part Referred to in Other Sections

This part is referred to in sections 1070a, 1070b-1, 1070e, 1078, 1087-3a, 1088b, 1088b-3, 1088f, 1145c of this title; title 26 section 6103.

§ 1087aa. Low-interest loans

[*See main edition for text of* (*a*)]

(b) Authorization of appropriations

(1) For the purpose of enabling the Commissioner to make contributions to student loan funds established under this part, there are hereby authorized to be appropriated $375,000,000 for the fiscal year ending June 30, 1972; and $400,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1980.

(2) In addition there are hereby authorized to be appropriated such sums for the fiscal year ending September 30, 1980, and each of the three succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1980, to continue or complete courses of study.

[*See main edition for text of* (*c*)]

(As amended Pub. L. 96-49, § 5(d)(1), (2), Aug. 13, 1979, 93 Stat. 352.)

Amendments

1979—Subsec. (b). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979" in par. (1) and "September 30, 1980" and "October 1, 1980" for "September 30, 1979" and "October 1, 1979" in par. (2).

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1087bb. Apportionment of appropriations

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1087cc. Agreements with institutions of higher education

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1070b-2, 1087aa, 1087bb, 1087dd, 1087gg, 1088f-1 of this title.

§ 1087dd. Terms and conditions of loans

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Written instruments for loans; repayment: generally, cancellation, deferral

[*See main edition for text of* (*1*)]

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

[*See main edition for text of* (*i*) *to* (*iii*)]

(iv) is in service as a volunteer under Domestic Volunteer Act of 1973 [42 U.S.C. 4951 et seq.].

The period during which repayment may be deferred by reason of clause (ii), (iii), or (iv) shall not exceed three years.

[*See main edition for text of* (*B*), (*3*) *and* (*4*); (*d*) *and* (*e*)]

(As amended Pub. L. 95-43, § 1(a)(39), June 15, 1977, 91 Stat. 217.)

References in Text

The Domestic Volunteer Act of 1973, referred to in subsec. (c)(2)(A), probably means the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§ 4951 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4951 of Title 42 and Tables.

Amendments

1977—Subsec. (c)(2)(A)(iv). Pub. L. 95-43 substituted "the Domestic Volunteer Act of 1973" for "title VIII of the Economic Opportunity Act of 1964".

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1087ee. Cancellation of loans for certain public service

(a) Amount; description of public service: definition of "handicapped children" and "year"

[See main edition for text of (1)]

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2701 et seq.], and which for the purposes of this paragraph and for that year has been determined by the Commissioner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2711(c)] exceeds 30 per centum of the total enrollment of that school and such determination shall not be made with respect to more than 50 per centum of the total number of schools in the State receiving assistance under such title I;

[See main edition for text of (B) to (D)]

For the purposes of this paragraph, the term "handicapped children" means children who are mentally retarded, hard of hearing, deaf, speech-impaired, visually handicapped; seriously emotionally disturbed, or other health-impaired children who by reason thereof require special education.

[See main edition for text of (3) and (4); (b)]

(As amended Pub. L. 95-561, title XIII, § 1323, Nov. 1, 1978, 92 Stat. 2363.)

References in Text

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152. Title I of the 1965 Act, which was formerly classified generally to subchapter II (§ 241a et seq.) of chapter 13 of this title, is now classified generally to subchapter I (§ 2701 et seq.) of chapter 47 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

Amendments

1978—Subsec. (a)(2)(A). Pub. L. 95-561 substituted "counted under section 111(c) of the Elementary and Secondary Education Act of 1965" for "described in clause (A), (B), or (C) of section 103(a)(2) of title I of the Elementary and Secondary Education Act of 1965 (using a low-income factor of $3,000)".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1087ff. Distribution of assets from student loan funds

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1087gg. Collection of defaulted loans

The Commissioner is authorized to attempt to collect any loan, which was made under this part and which is in default, referred to him by an institution, with which he has an agreement under subsection (a) of section 1087cc of this title, on behalf of such institution under such terms and conditions as the Commissioner may prescribe, including reimbursement for expenses he may reasonably incur in attempting such collection.

(Pub. L. 89-329, title IV, § 467, as added Pub. L. 96-49, § 5(d)(3)(A), Aug. 13, 1979, 93 Stat. 352.)

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Budget Authority

Section 5(d)(3)(B) of Pub. L. 96-49 provided that: "Nothing in the amendment made by this paragraph [enacting this section] shall be construed to authorize the enactment of new budget authority for fiscal years 1979 or 1980."

Part E—General Provisions Relating to Student Assistance Programs

subpart 1—general provisions

§ 1088. Definitions

(a) For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term "State" has the meaning set forth in section 1141(b) of this title.

(b)(1) For the purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, except subpart 5 of part A of this subchapter, except part B of this subchapter, the term "institution of higher education" includes any school of nursing; any postsecondary vocational institution; and any proprietary institution of higher education which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this subchapter and part C of subchapter I of chapter 34 of title 42 has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

[See main edition for text of (2)]

(3) For the purposes of this subsection, the term "proprietary institution of higher education" means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1) and (2) of section 1141(a) of this title, (C) which does not meet the requirement of clause (4) of section 1141(a) of this title, (D) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, and (E) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1141(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(4) For the purposes of this subsection, the term "postsecondary vocational institution" means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1), (2), and (4) of section 1141(a) of this title, (C) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, and (D) which has been in existence for at least two years. For the purpose of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authorities to the quality of training offered.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-180, § 1(b), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95-566, § 6, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96-49, § 5(e), Aug. 13, 1979, 93 Stat. 352.)

AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96-49, § 5(e)(1), expanded term "institution of higher education" to include any postsecondary vocational institution.

Subsec. (b)(4). Pub. L. 96-49, § 5(e)(2), added par. (4).

1978—Subsec. (b)(3). Pub. L. 95-566 added provision expanding definition of "proprietary institution of higher education" to include a proprietary educational institution in any State which, in lieu of the requirement in cl. (1) of section 1141(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.

1977—Subsec. (a). Pub. L. 95-180 substituted "has the meaning set forth in section 1141(b) of this title" for "includes the Trust Territory of the Pacific Islands".

EFFECTIVE DATE OF 1979 AMENDMENT

Section 17(b) of Pub. L. 96-49 provided that: "The amendments made by section 5(e) [amending subsec. (b)(1) and enacting subsec. (b)(4) of this section] shall take effect with respect to grants, loans, and other financial assistance made available to students for the academic year 1979-1980 and for academic years thereafter."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-566 effective Nov. 1, 1978, see section 9 of Pub. L. 95-566, set out as an Effective Date of 1978 Amendment note under section 1070a of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1088b. Expenses of administration

(a) Source and amount of payment

An institution which has entered into an agreement with the Commissioner under subpart 2 of part A, part C of subchapter I of chapter 34 of title 42, or part D of this subchapter shall be entitled for each fiscal year for which it receives an allotment under any such part to a payment for the purposes set forth in subsection (c) of this section. The payment for a fiscal year (1) shall be payable from each such allotment in accordance with regulations of the Commissioner, and (2) shall (except as provided in subsection (b) of this section) be an amount equal to 4 per centum of (A) the institution's expenditures during the fiscal year from its allotment under part A of this subchapter plus (B) its expenditures during such fiscal year under part C of subchapter I of chapter 34 of title 42 for compensation of students, plus (C) the principal amount of loans made during such fiscal year from its student loan fund established under part E of this subchapter.

(b) Limitations

The aggregate amount paid to an institution for a fiscal year under this section may not exceed $325,000.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-43, § 1(a)(40), June 15, 1977, 91 Stat. 217.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-43, § 1(a)(40)(A), (B), in first sentence, substituted reference to subpart 2 of part A for prior reference to part A of this subchapter, included reference to part D of this subchapter, and substituted "any" for "either" and "for the purposes set forth in subsection (c) of this section" for "in lieu of reimbursement for its expenses during such fiscal year in administering programs assisted under such part"; and added cl. (C) to the second sentence.

Subsec. (b). Pub. L. 95-43, § 1(a)(40)(C), eliminated from the limitation of the aggregate amount paid to an institution the additional amount withdrawn from the student loan fund under section 424(b) of this title and the requirement of use of such amounts to carry out the provisions of section 1088b-1 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1088b-1, 1088c

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1088d. Furnishing guidelines to Congressional committees

Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date.

(As amended S. Res. 30, Mar. 7, 1979.)

Change of Name

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

§ 1088e. Transfer between programs

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1088f. Eligibility for student assistance

[*See main edition for text of* (*a*) *to* (*c*)]

(d) Factors considered in determination of need

Any determinations of need made for the purposes of part C of subchapter I of chapter 34 of title 42 or part D of this subchapter shall include considerations of the factor described in section 1070b-2(a)(2)(v) of this title. Nothing in this subsection shall be deemed to prohibit the taking into account for the purposes of such parts of other factors used for the determination of need under other parts of this subchapter.

[*See main edition for text of* (*e*)]

(As amended Pub. L. 95-566, § 7, Nov. 1, 1978, 92 Stat. 2404.)

Amendments

1978—Subsec. (d). Pub. L. 95-566 added subsec. (d).

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-566 effective Nov. 1, 1978, see section 9 of Pub. L. 95-566, set out as an Effective Date of 1978 Amendment note under section 1070a of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Authority for Limitation, Suspension, or Termination of Eligibility of Institution of Higher Education

Amendment of sections 1141(a) and 1085(b)(1) of this title by Pub. L. 94-482 was not to be construed as authorizing the termination of eligibility of an institution deemed an institution of higher education for purposes of sections 1141(a) and 1085(b)(1) of this title on Oct. 12, 1976, but the authority of the Commissioner to limit, suspend, or terminate eligibility was also not to be construed as impaired under this section, see section 181(b) of Pub. L. 94-482, set out as a note under section 1141 of this title.

§ 1088f-1. Fiscal eligibility of institutions

(a) Auditing, financial responsibility, and informational requirements; promulgation of regulations

Notwithstanding any other provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Commissioner is authorized to prescribe such regulations as may be necessary to provide for—

[*See main edition for text of* (*1*) *to* (*4*); (*b*)]

(c) Suspension or termination of eligibility status

Upon determination that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Commissioner may suspend or terminate the eligibility status for any or all programs under this subchapter and part C of subchapter I of chapter 34 of title 42 of any otherwise eligible institution, in accordance with procedures specified in subsection (a)(4) of this section, until he finds that such practices have been corrected.

[*See main edition for text of* (*d*) *and* (*e*)]

(As amended Pub. L. 95-43, § 1(a)(41), June 15, 1977, 91 Stat. 217; Pub. L. 95-561, title XII, § 1231(b), Nov. 1, 1978, 92 Stat. 2346.)

Amendments

1978—Subsec. (a). Pub. L. 95-561 struck out ", or of section 1232c(c) of this title" following "title 42" in the provisions preceding par. (1).

1977—Subsec. (c). Pub. L. 95-43, correcting an error in Pub. L. 94-482, substituted "subsection (a)(4) of this section" for "paragraph (a)(3) of this section".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95-561, set out as a note under section 1232c of this title.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1234b of this title.

SUBPART 2—ADVISORY COUNCIL ON FINANCIAL AID TO STUDENTS

§ 1089. Advisory Council on Financial Aid to Students; establishment; membership; functions

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER V—TEACHER CORPS AND TEACHER TRAINING PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2890 of this title.

PART A—TEACHER CORPS PROGRAM

§ 1101. Statement of purpose; authorization of appropriations

[*See main edition for text of* (a)]

(b) For the purpose of carrying out the provisions of this part there are authorized to be appropriated $50,000,000 for the fiscal year 1977, $75,000,000 for the fiscal year 1978, and $100,000,000 for the fiscal year 1979, and for the succeeding fiscal year.

(As amended Pub. L. 96-49, § 6(a), Aug. 13, 1979, 93 Stat. 353.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-49 authorized appropriation of $100,000,000 for fiscal year 1980.

§ 1102. Establishment and administration

In order to carry out the purposes of this part, there is hereby established in the Office of Education a Teacher Corps. The Teacher Corps shall be headed by a Director and a Deputy Director. The Director and the Deputy Director shall perform such duties as are delegated to them by the Commissioner, except that (1) the Commissioner may delegate his functions under this part only to the Director, and (2) the Director and Deputy Director shall not be given any function authorized by law other than that granted by this part.

(As amended Pub. L. 96-88, title V, § 508(*l*)(3), Oct. 17, 1979, 93 Stat. 694.)

AMENDMENTS

1979—Pub. L. 96-88 struck out provisions authorizing compensation of the Director and Deputy Director at rates prescribed for grades 17 and 16, respectively, of the General Schedule.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-88, effective 180 days after the first Secretary takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

ABOLISHED POSITIONS DEEMED TRANSFERRED

Section 508(*l*)(4) of Pub. L. 96-88 provided that: "Positions abolished as a consequence of the amendments made by this subsection [amending sections 1102, 2390, and 3012 of this title] shall, for purposes of section 502(a) [3502(a) of this title], be deemed to be permanent positions transferred pursuant to title V of this Act [section 3501 et seq. of this title]."

§ 1103. Teachers Corps program

REFERENCES IN TEXT

Section 241e(a)(2) of this title, referred to in subsec. (d), was repealed by Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200. See section 2731 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1104. Compensation of members

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART B—TEACHER TRAINING PROGRAMS

§ 1119. Authorization of appropriations

There are authorized to be appropriated $75,000,000 for the fiscal year 1977 and the fiscal year 1978, and $100,000,000 for the fiscal year 1979, and for the succeeding fiscal year to carry out the provisions of this part. Of the sums so appropriated for any fiscal year not less than 10 per centum shall be available for each of the programs authorized by sections 1119a and 1119a-1 of this title. In the event that sums exceeding $50,000,000 are appropriated in any fiscal year for purposes of carrying out this part, each State shall receive grants sufficient to assure the establishment of one such teacher center in that State in such fiscal year.

(Pub. L. 89-329, title V, § 531, as added Pub. L. 94-482, title I, § 153, formerly § 153(a), Oct. 12, 1976, 90 Stat. 2154, renumbered Pub. L. 95-43, § 1(b)(5), June 15, 1977, 91 Stat. 218, and amended Pub. L. 95-561, title XIII, § 1321(a), Nov. 1, 1978, 92 Stat. 2362; Pub. L. 96-49, § 6(b), Aug. 13, 1979, 93 Stat. 353.)

Amendments

1979—Pub. L. 96-49 authorized appropriation of $100,000,000 for the fiscal year succeeding fiscal year 1979.

1978—Pub. L. 95-561 substituted "and the fiscal year 1978, and $100,000,000 for the fiscal year 1979," for "and for each of the fiscal years ending prior to October 1, 1979," and added provision that, in the event that sums exceeding $50,000,000 are appropriated in any fiscal year for purposes of carrying out this part, each State receive grants sufficient to assure the establishment of one teacher center in that State in that fiscal year.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§ 1119a. Teacher centers

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Procedures for awarding of grants to local educational agencies

(1) Any local educational agency or any consortium of local educational agencies (including statewide programs) desiring to receive a grant under this section shall make application therefor at such time, in such manner, and containing or accompanied by such information, as the Commissioner may by regulation require. Each application shall be submitted through the State educational agency of the State in which the applicant is located. Each such State agency shall review the application, make comments thereon, and recommend each application the State agency finds should be approved. Only applications so recommended shall be transmitted to the Commissioner for his approval.

(2) Any local educational agency which has submitted an application in accordance with paragraph (1) of this subsection which is dissatisfied with the action of the appropriate State educational agency may petition the Commissioner to request further consideration by the State educational agency. The Commissioner shall, upon receipt of such petition, request further consideration by the State educational agency.

(3) If, subsequent to the expiration of thirty days after the Commissioner's petitioning the State educational agency, such agency has not transmitted such application, then such application shall be transmitted to the Commissioner along with the comments and evaluation of the State educational agency.

[*See main edition for text of* (*d*) *to* (*f*)]

(Pub. L. 89-329, title V, § 532, as added Pub. L. 94-482, title I, § 153, formerly § 153(a), Oct. 12, 1976, 90 Stat. 2154, renumbered Pub. L. 95-43, § 1(b)(5), June 15, 1977, 91 Stat. 218, and amended Pub. L. 95-561, title XIII, § 1321(b), Nov. 1, 1978, 92 Stat. 2363.)

Amendments

1978—Subsec. (c)(1). Pub. L. 95-561, § 1321(b)(1), added "or any consortium of local educational agencies (including statewide programs)" following "local educational agency".

Subsec. (c)(2). Pub. L. 95-561, § 1321(b)(2), added provision requiring the Commissioner, upon receipt of a petition, to request further consideration by the State educational agency.

Subsec. (c)(3). Pub. L. 95-561, § 1321(b)(3), added par. (3).

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1119a-1. Grants to institutions of higher education for training of higher education personnel; conditions

(a) The Commissioner is authorized to make grants to institutions of higher education to assist such institutions in the training of individuals—

[*See main edition for text of* (*1*)]

(2) serving as teachers, including guidance and counseling personnel, administrative personnel, or education specialists in institutions of higher education, if such individuals are to be trained to meet changing personnel needs, such as in areas determined to be national priority areas pursuant to section 1221e-1(d)(1)(D) of this title.

[*See main edition for text of* (*b*)]

(Pub. L. 89-329, title V, § 533, as added Pub. L. 94-482, title I, § 153, Oct. 12, 1976, 90 Stat. 2155, and amended Pub. L. 95-43, § 1(a)(42), (b)(5), June 15, 1977, 91 Stat. 217, 218.)

Codification

Pub. L. 95-43, § 1(b)(5), struck out reference to subsec. (a) from the credit of section 153 of Pub. L. 94-482, which enacted this section, there being no other subsections.

Amendments

1977—Subsec. (a)(2). Pub. L. 95-43, § 1(a)(42), substituted "section 1221e-1(d)(1)(D) of this title" for "section 1119a of this title".

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER VI—FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1055, 1142a of this title.

PART A—EQUIPMENT GRANTS

§ 1121. Statement of purpose; authorization of appropriations

[*See main edition for text of* (*a*)]

(b) There are authorized to be appropriated $60,000,000 for each of the fiscal years ending prior to October 1, 1980, to enable the Commissioner to make grants to institutions of higher education and combinations of institutions of higher education pursuant to this part for the acquisition of equipment and for minor remodeling described in section 1123(2)(A) of this title.

(c) There are authorized to be appropriated $10,000,000 for each of the fiscal years ending prior to October 1, 1980, to enable the Commissioner to make grants to institutions of higher education and combinations of institutions of higher education pursuant to this part for the acquisition of television equipment and for minor remodeling described in section 1123(2)(B) of this title.

(As amended Pub. L. 96-49, § 7, Aug. 13, 1979, 93 Stat. 353.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-49, § 7(a), substituted "October 1, 1980" for "October 1, 1979".

Subsec. (c). Pub. L. 96-49, § 7(b), substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1122. Allotments to States

(a) Amount; enrollment determinations; allotment ratios

[*See main edition for text of* (*1*)]

(2) For the purposes of this paragraph the Commissioner shall allot to each State for each fiscal year an amount which bears the same ratio to the funds being allotted pursuant to this paragraph as the product of—

(A) the number of students enrolled in institutions of higher education in such State, and

(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States. For the purposes of this paragraph the allotment ratio for any State shall be 1.00 less the product of (i) 0.50 and (ii) the quotient obtained by dividing the income per person for the State by the income per person for all the States (not including Puerto Rico, the Virgin Islands, American Samoa, the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and Guam), except that the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔, and the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, and Guam shall be 0.66⅔. The allotment ratios shall be promulgated by the Commissioner as soon as possible after November 8, 1965, and annually thereafter, on the basis of the average of the incomes per person of the States and of all the States for the three most recent consecutive calendar years for which satisfactory data are available from the Department of Commerce.

[*See main edition for text of* (*b*) *and* (*c*)]

(As amended Pub. L. 95-180, § 1(c), Nov. 15, 1977, 91 Stat. 1372.)

AMENDMENTS

1977—Subsec. (a)(2). Pub. L. 95-180 added ", the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands" following "American Samoa".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1123 to 1128

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1129a. Consultation by Commissioner with National Science Foundation and other agencies

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART B—FACULTY DEVELOPMENT PROGRAMS

§ 1131. Grants for operating workshops or institutes

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1055, 1142a of this title; title 42 section 3188a.

PART A—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

§ 1132a. Authorization of appropriations

[*See main edition for text of* (*a*)]

(b) For the purpose of making grants under this part, there are hereby authorized to be appropriated $50,000,000, for the fiscal year ending June 30, 1972, $200,000,000 for the fiscal year ending June 30, 1973, and $300,000,000 for each of the fiscal years ending prior to October 1, 1980.

[*See main edition for text of* (*c*)]

(As amended Pub. L. 96-49, § 8(a), Aug. 13, 1979, 93 Stat. 353.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1132a-1 to 1132a-7

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

§ 1132b. Statement of purpose; grants or contracts by Commissioner; authorization of appropriations

[*See main edition for text of* (*a*)]

(b) For the purpose of making grants under this part, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1972, $40,000,000 for the fiscal year ending June 30, 1973, $60,000,000 for the fiscal year ending June 30, 1974, and $80,000,000 for each of the fiscal years ending prior to October 1, 1980.

(As amended Pub. L. 96-49, § 8(b), Aug. 13, 1979, 93 Stat. 353.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1132b-1 of this title.

§ 1132b-1. Grants

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

§ 1132c. Authorization

[*See main edition for text of* (*a*)]

(b) Appropriations

For the purpose of making payments into the fund established under section 1132c-3 of this title, there are hereby authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1972, $100,000,000 for the fiscal year ending June 30, 1973, $150,000,000 for the fiscal year ending June 30, 1974, and $200,000,000 for each of the fiscal years ending prior to October 1, 1980. Sums appropriated pursuant to this subsection for any fiscal year shall be available without fiscal year limitations.

(As amended Pub. L. 96-49, § 8(c)(1), Aug. 13, 1979, 93 Stat. 353.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1132c-1 to 1132c-3

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1132c-4. Annual interest grants

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Authorization of appropriations; aggregate amount of contracts

[*See main edition for text of* (*1*)]

(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Act; and in any event the total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into under this section shall not exceed $5,000,000 which amount shall be increased by $6,750,000 on July 1, 1969, and by $13,500,000 on July 1, 1970 and on the first day of each fiscal year during the period ending September 30, 1980.

[*See main edition for text of* (*d*) *and* (*e*)]

(As amended Pub. L. 95-43, § 1(b)(6), June 15, 1977, 91 Stat. 218; Pub. L. 96-49, § 8(c)(2), Aug. 13, 1979, 93 Stat. 353.)

AMENDMENTS

1979—Subsec. (c)(2). Pub. L. 96-49 substituted "September 30, 1980" for "September 30, 1979".

1977—Pub. L. 95-43, § 1(b)(6), amended Pub. L. 94-482, § 162(g), to strike out paragraph designation (1) [amending subsec. (b)] and to strike out paragraph (2) [amending subsec. (c)(2) by substituting "six succeeding years, and October 1, 1977, and on October 1 of each of the succeeding fiscal years" for "four succeeding years"], thus eliminating amendment by Pub. L. 94-482, § 162(g)(2), inconsistent with amendment by Pub. L. 94-482, § 161(d).

1976—Subsec. (b). Pub. L. 94-482, § 162(g), as amended by Pub. L. 95-43, § 1(b)(6) to strike out paragraph designation (1) [amending subsec. (b)] and to strike out par. (2) [amending subsec. (c)(2)], substituted "1132c—1(b)" for "1132c—3(b)(3)".

Subsec. (c)(2). Pub. L. 94-482, § 161(d), substituted "the first day of each fiscal year during the period ending September 30, 1979" for "July 1 of each of the four succeeding years". Pub. L. 94-482, § 162(g), amended by Pub. L. 95-43, § 1(b)(6), to strike out paragraph designation (1) [amending subsec. (b)] and to strike out paragraph (2) [amending subsec. (c)(2) by substituting "six succeeding years, and October 1, 1977, and on October 1 of each of the succeeding fiscal years" for "four succeeding years"], thus eliminating amendment by Pub. L. 94-482, § 162(g)(2), inconsistent with amendment by Pub. L. 94-482, § 161(d).

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1132c-5. Academic facilities loan insurance

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART D—ASSISTANCE IN MAJOR DISASTER AREAS

§ 1132d. Authorization of appropriations

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1132d-1. Disaster assistance for replacement or restoration of academic facilities

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

DELEGATION OF FUNCTIONS

Functions of the Director of the Office of Emergency Preparedness under subsec. (a) of this section, previously transferred to the President, were delegated to the Director of the Federal Emergency Management Agency by section 4-107 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, set out as a note under section 2251 of the Appendix to Title 50, War and National Defense.

§§ 1132d-2 to 1132d-5

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART E—RECONSTRUCTION AND RENOVATION

§ 1132d-11. Grants or loans to institutions of higher education and higher education building agencies

(a) Sources of funds; primary purpose requirements

The Commissioner is authorized to make grants from funds appropriated under section 1132a(b) of this title, loans from funds appropriated under section 1132c(b) of this title, or loans, to the extent provided in advance by appropriations Acts, from any unused amounts in the fund established under section 1132c-3 of this title, notwithstanding any prior restrictions on the use of such unused amounts, to institutions of higher education and to higher education building agencies for the reconstruction or renovation of academic facilities if the primary purpose of such reconstruction or renovation is—

[*See main edition for text of* (*1*) *and* (*2*)]

(b) Determination of compliance with primary purpose requirements

(1) In establishing criteria for determining whether the primary purpose of a proposed reconstruction or renovation is to conserve energy, the Commissioner shall consult with other Federal agencies which have specific expertise in energy conservation.

(2) In establishing criteria for determining whether the primary purpose of a proposed reconstruction or renovation is to enable such facility to meet environmental protection standards or health or safety requirements imposed under law, the Commissioner shall consult with the appropriate Federal, State or local agency responsible for the administration of such law.

(3) In establishing criteria for determining whether the primary purpose of a proposed reconstruction or renovation is to enable such facility to comply with the Act of August 12, 1968 [42 U.S.C. 4151 et seq.], the Commissioner shall consult with the Architectural and Transportation Barriers Compliance Board and the Administrator of General Services.

[*See main edition for text of* (*c*)]

(d) Recovery of payments: depreciated value of improvements; period of Federal interest

Grants and loans awarded for the purposes of this part shall not be subject to the provisions of subsections (a) and (b) of section 1132e of this title. The Commissioner shall, with respect to each such grant or loan, determine the period which shall be deemed to be the period of Federal interest in the facility reconstructed or renovated. If, within such period, such facility ceases to be used as an academic facility, the

United States shall recover from the applicant (or its successor in title or possession) an amount representing the depreciated value of the improvements made with such grant or loan, determined in accordance with the procedures set forth in the last sentence of section 1132e(b) of this title.

(e) Funds for graduate and undergraduate facilities

Funds appropriated under section 1132a(b) of this title available for grants under this part may be used for graduate and undergraduate facilities and may be used without regard to whether such funds will increase or create enrollment capacity, health care capacity, or capacity to carry out extension and containing education programs.

(As amended Pub. L. 95-43, § 1(a)(43), June 15, 1977, 91 Stat. 217.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-43, § 1(a)(43)(A), struck out "grants from funds appropriated under section 1132b(b) of this title," following "section 1132a(b) of this title,".

Subsec. (b). Pub. L. 95-43, § 1(a)(43)(B), substituted in pars. (1) to (3) "In establishing criteria for determining" for "In determining".

Subsecs. (d), (e). Pub. L. 95-43, § 1(a)(43)(C), added subsecs. (d) and (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART F—GENERAL PROVISIONS

§ 1132e. Recovery of payments

(a) Period of Federal interest

The Congress finds and declares that, if a facility constructed with the aid of a grant or grants under part A or B of this subchapter is used as an academic facility for twenty years following completion of such construction the public benefit accruing to the United States from such use will equal in value the amount of such grant or grants. The period of twenty years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this subchapter.

(b) Amount of recovery

If, within twenty years after completion of construction of an academic facility which has been constructed in part with a grant or grants under part A or B of this subchapter—

(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term "academic facility", unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal grant or grants bore to the development cost of the facility financed with the aid of such grant or grants. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-43, § 1(a)(44), June 15, 1977, 91 Stat. 218.)

AMENDMENTS

1977—Subsecs. (a), (b). Pub. L. 95-43 struck out ", reconstruction, or renovation" following "construction" and "reconstructed or renovated" following "constructed,", wherever appearing in subsecs. (a) and (b).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-43 effective Oct. 12, 1976, see section 2 of Pub. L. 95-43, set out as an Effective Date of 1977 Amendment note under section 1071 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1132a-6, 1132d-11 of this title.

§ 1132e-1. Definitions

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER VII—COOPERATIVE EDUCATION

§§ 1133 to 1133b

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER IX—GRADUATE PROGRAMS

PART A—GRANTS TO INSTITUTIONS OF HIGHER EDUCATION

§ 1134. Congressional declaration of purpose; authorization of appropriations

[See main edition for text of (a) and (b)]

(c) There are authorized to be appropriated $50,000,000 for each of the fiscal years ending prior to October 1, 1980, for the purpose of this part.

(As amended Pub. L. 96-49, § 9(a), Aug. 13, 1979, 93 Stat. 353.)

AMENDMENTS

1979—Subsec. (c). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1134a to 1134c

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART B—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

§ 1134e. Number of fellowships

(a) Authorization; duration; extension period

During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1980, the Commissioner is authorized to award not to exceed seven thousand five hundred fellowships to be used for study in graduate programs at institutions of higher education. Such fellowships may be awarded for such period of study as the Commissioner may determine but not in excess of thirty-six months except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

[See main edition for text of (b) and (c)]

(As amended Pub. L. 96-49, § 9(b), Aug. 13, 1979, 93 Stat. 353.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1134f to 1134h

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART C—PUBLIC SERVICE FELLOWSHIPS

§ 1134i. Award of public service fellowships

(a) Number of fellowships; duration; extension period

During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1980, the Commissioner is authorized to award not to exceed five hundred fellowships in accordance with the provisions of this part for graduate or professional study for persons who plan to pursue a career in public service. Such fellowships shall be awarded for such periods as the Commissioner may determine, but not in excess of thirty-six months except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such a twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

[See main edition for text of (b) to (d)]

(As amended Pub. L. 96-49, § 9(c), Aug. 13, 1979, 93 Stat. 353.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1134j to 1134m

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART D—FELLOWSHIPS FOR OTHER PURPOSES

§ 1134n. Program authorization

[See main edition for text of (a)]

(b) Number of fellowships; appropriation limitation; award of vacated fellowships

(1) The Commissioner is authorized to award under the provisions of this part not to exceed five hundred fellowships for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1980. Appropriations made pursuant to section 1134r of this title for fellowships awarded under clause (2) of subsection (a) of this section may not exceed $1,000,000 in any fiscal year.

[*See main edition for text of* (2); (c) *and* (d)]

(As amended Pub. L. 96-49, § 9(d), Aug. 13, 1979, 93 Stat. 353.)

AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1134p, 1134q

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1134r-1. Assistance for training in legal profession

(a) Grant and contract authorization of Commissioner; eligible individuals

The Commissioner is authorized prior to October 1, 1980, to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Commissioner, to undertake training for the legal profession.

[*See main edition for text of* (b) *and* (c)]

(As amended Pub. L. 96-49, § 9(e), Aug. 13, 1979, 93 Stat. 353.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART E—ANNUAL FELLOWSHIP REPORT

§ 1134r-2. Report on graduate fellowships and assistance; time for submission; contents

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART F—GENERAL ASSISTANCE TO GRADUATE SCHOOLS

§ 1134s. General assistance grants

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER X—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1142a, 1142b, 1145c, 3286 of this title.

PART A—STATEWIDE PLANS

§ 1135. Development of plans

[*See main edition for text of* (a)]

(b) Authorization of appropriations

(1) There are authorized to be appropriated $15,700,000 for each of the fiscal years ending prior to October 1, 1980, to carry out the provisions of this section.

(2) Sums appropriated pursuant to paragraph (1) shall be allotted by the Commissioner equally among the States, except that the amount allotted to Guam, American Samoa, the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Virgin Islands shall not exceed $100,000 each. Such sums shall remain available until expended.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-180, § 1(c), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96-49, § 10(a), Aug. 13, 1979, 93 Stat. 354.)

AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

1977—Subsec. (b)(2). Pub. L. 95-180 added ", the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands" following "American Samoa".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART B—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES

§ 1135a. Program authorization; authorization of appropriations

[*See main edition for text of* (*a*)]

(b) For the purpose of carrying out this part, there are authorized to be appropriated $150,000,000 for each of the fiscal years ending prior to October 1, 1980.

(As amended Pub. L. 96-49, § 10(b), Aug. 13, 1979, 93 Stat. 354.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1135a-1. Apportionments; State defined

(a) From the sums appropriated pursuant to section 1135a(b) of this title for each fiscal year the Commissioner shall apportion not more than 5 per centum thereof among Puerto Rico, Guam, American Samoa, the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Virgin Islands according to their respective needs. From the remainder of such sums the Commissioner shall apportion to each State an amount which bears the same ratio to such remainder as the population aged eighteen and over in such State bears to the total of such population in all States. For the purpose of the second sentence of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa, the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Virgin Islands.

[*See main edition for text of* (*b*)]

(As amended Pub. L. 95-180, § 1(c), Nov. 15, 1977, 91 Stat. 1372.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-180 added ", the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands" following "American Samoa".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1135a-2 to 1135a-6

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART C—ESTABLISHMENT OF AGENCIES

§ 1135c-1. Community College Unit; establishment

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER XI—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

§§ 1136, 1136a

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1136b. Authorization of appropriations

There are authorized to be appropriated $7,500,000 for each of the succeeding fiscal years ending prior to October 1, 1980, to carry out the purposes of this subchapter (and planning and related activities in the initial fiscal year for such purposes).

(As amended Pub. L. 96-49, § 11, Aug. 13, 1979, 93 Stat. 354.)

AMENDMENTS

1979—Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

SUBCHAPTER XII—GENERAL PROVISIONS

§ 1141. Definitions

As used in this chapter—

[*See main edition for text of* (*a*)]

(b) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

[*See main edition for text of* (*c*) *to* (*l*)]

(Pub. L. 89-329, title XII, § 1201, formerly title VIII, § 801, Nov. 8, 1965, 79 Stat. 1269, renumbered and amended Pub. L. 90-575, title II, §§ 251, 293, 294, Oct. 16, 1968, 82 Stat. 1042, 1050, 1051; Pub. L. 91-230, title VIII, § 806(b), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92-318, title I, § 131(d)(1), June 23, 1972, 86 Stat. 260; Pub. L. 94-482, title I, § 181(a), formerly § 181, Oct. 12, 1976, 90 Stat. 2167, renumbered Pub. L. 95-43, § 1(b)(7), June 15, 1977, 91 Stat. 218; Pub. L. 95-180, § 1(a), Nov. 15, 1977, 91 Stat. 1372.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-180 added the government of the Northern Mariana Islands and the Trust

Territory of the Pacific Islands to the enumeration of areas included within the term "State".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

RETROACTIVE EFFECT OF 1977 AMENDMENT

Section 1(d) of Pub. L. 95-180 provided that: "Nothing in this Act [amending this section and sections 1088, 1122, 1135, and 1135a-1 of this title], the Higher Education Act of 1965 [see Short Title note set out under section 1001 of this title], or any other provision of law shall invalidate any payments or other benefits provided under the Higher Education Act of 1965 to an agency or institution in the Trust Territory of the Pacific Islands or to the government of the Northern Mariana Islands prior to the enactment of this Act [Nov. 15, 1977]."

AUTHORITY FOR LIMITATION, SUSPENSION, OR TERMINATION OF ELIGIBILITY OF INSTITUTION OF HIGHER EDUCATION

Section 181(b) of Pub. L. 94-482, as added by Pub. L. 95-43, § 1(b)(7), provided that: "Neither the amendment made by subsection (a) of this section [to subsec. (a) of this section] nor the amendment made to section 435(b)(1) of the Act [section 1085(b)(1) of this title] (by section 127(a) of this Act) shall be construed to authorize terminating the eligibility of an institution which was deemed to be an institution of higher education for purposes of sections 435(b)(1) and 1201(a) [section 1085(b)(1) of this title and subsec. (a) of this section] on the date of enactment of this Act [Oct. 12, 1976]. The preceding sentence of this section shall not be construed to impair the authority of the Commissioner to limit, suspend, or terminate such eligibility for the reasons and as provided by section 497 of the Act [section 1088f of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1088, 2002, 2402 of this title; title 18 section 207; title 25 sections 13, 1801; title 29 sections 631, 802; title 30 section 1291; title 33 section 1262; title 39 section 3626; title 42 sections 3033, 3791.

§ 1142a. State postsecondary education commissions

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1142b. Comprehensive statewide planning

[*See main edition for text of* (*a*) *to* (*c*)]

(d) Authorization of appropriations

(1) There are authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1980, to carry out the provisions of this section other than subsection (c) of this section.

(2) There are authorized to be appropriated $2,000,000 for each fiscal year ending prior to October 1, 1980, to carry out the provisions of subsection (c) of this section.

(As amended Pub. L. 96-49, § 12, Aug. 13, 1979, 93 Stat. 354.)

AMENDMENTS

1979—Subsec. (d). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979" in pars. (1) and (2).

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1145, 1145a

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 29—INTERNATIONAL STUDIES AND RESEARCH

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3441 of this title; title 7 section 1704.

§ 1172. Centers for advanced international studies; grants; visiting scholars; stipends; travel

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

NATIONAL ACADEMY OF PEACE AND CONFLICT RESOLUTION

Pub. L. 95-561, title XV, §§ 1511 to 1519, Nov. 1, 1978, 92 Stat. 2376-2378, provided that:

"ESTABLISHMENT

"SEC. 1511. There is established a commission to be known as the Commission on Proposals for the National Academy of Peace and Conflict Resolution."

"DUTIES OF COMMISSION

"SEC. 1512. (a) The Commission shall undertake a study to consider—

"(1) whether to establish a National Academy of Peace and Conflict Resolution;

"(2) the size, cost, and location of an Academy;

"(3) the effects which the establishment of an Academy would have on existing institutions of higher education;

"(4) the relationship which would exist between an Academy and the Federal Government;

"(5) the feasibility of making grants and providing other forms of assistance to existing institutions of higher education in lieu of, or in addition to, establishing an Academy; and

"(6) alternative proposals, which may or may not include the establishment of an Academy, which would assist the Federal Government in accomplishing the goal of promoting peace.

"(b) In conducting the study required by subsection (a), the Commission shall—

"(1) review the theory and techniques of peaceful resolution of conflict between nations; and

"(2) study existing institutions which assist in resolving conflict in the areas of international relations.

"MEMBERSHIP

"Sec. 1513. (a) The Commission shall be composed of nine members as follows—

"(1) three appointed by the President pro tempore of the Senate;

"(2) three appointed by the Speaker of the House of Representatives; and

"(3) three appointed by the President.

"(b) Members shall be appointed for the life of the Commission.

"(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(d)(1) Except as provided in paragraph (2), members of the Commission each shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule (5 U.S.C. 5332) for each day during which they are engaged in the actual performance of the duties of the Commission.

"(2) Members of the Commission who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay on account of their service on the Commission.

"(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

"(e) The Commission shall elect a Chairman and a Vice Chairman from among its members.

"(f) Five members of the Commission shall constitute a quorum.

"(g) The Commission shall meet at the call of the Chairman or a majority of its members.

"DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS

"Sec. 1514. (a) Subject to such rules as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, shall have the power to—

"(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316);

"(2) appoint and fix the compensation of such staff personnel as he considers necessary; and

"(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

"(b) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

"POWERS OF COMMISSION

"Sec. 1515. (a) The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

"(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

"(c) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman, the head of any such Federal agency shall furnish such information to the Commission.

"REPORTS

"Sec. 1516. The Commission shall transmit to the President and to each House of the Congress such interim reports as it considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than one year after the date on which appropriations first become available to carry out this title. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation as it considers appropriate.

"TERMINATION

Sec. 1517. The Commission shall cease to exist sixty days after transmitting its final report under section 1516.

"AUTHORIZATION OF APPROPRIATION

"Sec. 1518. There is authorized to be appropriated not to exceed $500,000 to carry out this title.

"DEFINITIONS

"Sec. 1519. For purposes of this title—

"(1) the term 'Academy' means the National Academy of Peace and Conflict Resolution;

"(2) the term 'Chairman' means the Chairman of the Commission selected under section 1513(e);

"(3) the term 'Commission' means the Commission on Proposals for the National Academy of Peace and Conflict Resolution; and

"(4) the term 'Federal agency' means any agency, department, or independent establishment in the executive branch of the Federal Government, including any Government corporation."

§ 1173. Undergraduate programs in international studies

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1176, 1177

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 30—BASIC EDUCATION FOR ADULTS

Sec.

1207a. Research, development, dissemination, evaluation, and information clearinghouse [New].
  (a) Program authority.
  (b) Special needs of individuals requiring adult education.
  (c) Authorization of appropriations.
1211c. Adult education program for adult immigrants [New].
  (a) Grant and contract authority.
  (b) Application to State educational agency.
  (c) Time, manner, and form of application.
  (d) Payment by Commissioner of application costs.
  (e) Contracts with private nonprofit groups.
  (f) Authorization of appropriations.

Chapter Referred to in Other Sections

This chapter is referred to in sections 2390, 3231, 3286 of this title.

§ 1201. Congressional declaration of purpose

It is the purpose of this chapter to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will—

(1) enable all adults to acquire basic skills necessary to function in society,

(2) enable adults who so desire to continue their education to at least the level of completion of secondary school, and

(3) to make available to adults the means to secure training that will enable them to become more employable, productive, and responsible citizens.

(As amended Pub. L. 95-561, title XIII, § 1301, Nov. 1, 1978, 92 Stat. 2356.)

Amendments

1978—Pub. L. 95-561 added reference to programs of adult education that will enable all adults to acquire basic skills necessary to function in society.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Section Referred to in Other Sections

This section is referred to in section 1205 of this title.

§ 1202. Definitions

As used in this chapter—

[*See main edition for text of* (*a*)]

(b) The term "adult education" means services or instruction below the college level (as determined by the Commissioner), for adults who—

(1) lack sufficient mastery of basic educational skills to enable them to function effectively in society or who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education, and

[*See main edition for text of* (*2*); (*c*) *to* (*f*)]

(g) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and (except for the purposes of section 1204(a) of this title) Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.

[*See main edition for text of* (*h*) *and* (*i*)]

(j) The term "institution of higher education" means any such institution as defined by section 3381(e) of this title.

(As amended Pub. L. 95-561, title XIII, §§ 1302, 1304(a), Nov. 1, 1978, 92 Stat. 2357.)

Codification

In subsec. (j), "section 3381(e) of this title" was in the original "section 801(e) of the Elementary and Secondary Education Act of 1965", meaning section 801(e), title VIII, of Pub. L. 89-10, which was formerly classified to section 881(e) of this title. Section 801(e) of that Act was renumbered section 1001(e) of title X by Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and was transferred to section 3381(e) of this title.

Amendments

1978—Subsec. (b)(1). Pub. L. 95-561, § 1302, added reference to adults who lack sufficient mastery of basic educational skills to enable them to function effectively in society.

Subsec. (g). Pub. L. 95-561, § 1304(a), added "the Northern Mariana Islands," following "the Pacific Islands,".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Effective Date of 1974 Amendment

Pub. L. 93-380, title VIII, § 843(e), Aug. 21, 1974, 88 Stat. 612, provided that: "Unless otherwise specifically provided [see section 843(b)(1) to (3) of Pub. L. 93-380, set out as note under section 1412 of this title, respecting amendment of sections 1412(a)(1), (a)(1)(A), (2), and 1413(a)(1) of this title], the amendments made by this section [to sections 241g(b), 822(a)(1), (2), 842(a)(1), (2), 845(b), 862(a)(1), 866a(a), 867(c)(1)(A), (B), 1202(g), and 1204(a) of this title, and provisions of section 843(d) of Pub. L. 93-380] shall be effective on and after July 1, 1974."

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1203. Grants to States

(a) Grant authority

The Commissioner is authorized to make grants to States, which have State plans approved by him under section 1205 of this title for the purposes of this section, to pay the Federal share of the cost of (1) the establishment or expansion of adult basic education programs to be carried out by local educational agencies and by public or private nonprofit agencies, organizations, and institutions, and (2) the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private nonprofit agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private nonprofit agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The State educational agency shall not approve any application unless assured that such consultation has taken place. Such application shall contain a description of the cooperative arrangements that have been made to deliver services to adult students.

(b) Education of institutionalized individuals

Not more than 20 per centum of the funds granted to any State under subsection (a) of this section for any fiscal year shall be used for the education of institutionalized individuals.

(As amended Pub. L. 95-561, title XIII, § 1303, Nov. 1, 1978, 92 Stat. 2357.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561, § 1303(a), (b), designated existing provisions as subsec. (a) and in subsec. (a) as so designated substituted "by public or private nonprofit agencies, organizations, and institutions" for "private nonprofit agencies" and added provision that grants to carry out programs by public or private nonprofit agencies, organizations, and institutions be made only if the applicable local educational agency has been consulted and has had an opportunity to comment upon the application, that the application be approved only if the consultation has taken place, and that the application contain a description of the cooperative arrangements that have been made to deliver services to adult students.

Subsec. (b). Pub. L. 95-561, § 1303(b), added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1204, 1205, 1207a of this title.

§ 1204. Allotment and reallotment of grant funds

(a) From the sums available for purposes of section 1203 of this title for the fiscal year ending June 30, 1972, and for any succeeding fiscal year, the Commissioner shall allot (1) not more than 1 per centum thereof among Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands according to their respective needs for assistance under such section, and (2) $150,000 to each State. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in such State bears to the number of such adults in all States. From the sums available for purposes of section 1203 of this title for the fiscal year ending June 30, 1970, and the succeeding fiscal year, the Commissioner shall make allotments in accordance with this subsection as in effect on June 30, 1969.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-561, title XIII, § 1304(b), Nov. 1, 1978, 92 Stat. 2357.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561 added "the Northern Mariana Islands," following "the Pacific Islands,".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1202, 1205, 1208, 1211b, 1211c of this title.

§ 1205. State plans

(a) Requisites for State eligibility

A State shall be eligible to receive its allotment under section 1204 of this title if—

(1) it has on file with the Commissioner a general State application under section 1232c of this title, and

(2) it has submitted to the Commissioner at such times (not more frequently than one every three years), and in such detail, as the Commissioner shall prescribe a State plan meeting the requirements of subsection (b) of this section.

(b) Requisites for State plans

A State plan under this chapter shall—

(1) set forth a program for the use of funds provided under this chapter to carry out the purposes stated in section 1201 of this title with respect to all segments of the adult population in the State, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills, and institutionalized adults;

(2) provide for the administration of the program by the State educational agency;

(3) describe the procedures the State will use to ensure that in carrying out such program there will be adequate consultation, cooperation, and coordination among the State educational agency, State manpower service councils, State occupational information systems, and other agencies, organizations, and institutions in the State which operate employment and training programs or other educational or training programs for adults; and for coordination of programs carried on under this chapter with other programs, including reading improvement programs, designed to provide reading instruction for adults carried on by State and local agencies;

(4) identify (A) the needs of the population of the State for services authorized under this chapter, (B) the other resources in the State available to meet those needs, and (C) the goals the State will seek to achieve in meeting those needs over the period covered by the plan;

(5) provide that such agency will make available not to exceed 20 per centum of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school;

(6) provide such fiscal control and fund accounting procedures as may be necessary to

assure proper disbursement of and accounting for Federal funds paid the State under this chapter (including such funds paid by the State to local educational agencies and public or private nonprofit agencies, organizations, and institutions);

(7) describe the means by which the delivery of adult education services will be significantly expanded through the use of agencies, institutions, and organizations other than the public school systems, such as business, labor unions, libraries, institutions of higher education, public health authorities, antipoverty programs, and community organizations;

(8) describe the means by which representatives of business and industry, labor unions, public and private educational agencies and institutions, churches, fraternal and voluntary organizations, community organizations, State and local manpower and training agencies, and representatives of special adult populations, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills, and institutionalized adults, and other entities in the State concerned with adult education have been involved in the development of the plan and will continue to be involved in carrying out the plan, especially with regard to the expansion of the delivery of adult education services through those agencies, institutions, and organizations;

(9) describe the efforts to be undertaken by the State to assist adult participation in adult education programs through flexible course schedules, convenient locations, adequate transportation, and meeting child care needs;

(10) provide that special emphasis be given to adult basic education programs except where such needs are shown to have been met in the State;

(11) provide that special assistance be given to the needs of persons with limited English proficiency (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 3223(a)]) by providing a bilingual adult education program of instruction in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, carried out in coordination with programs of bilingual education assisted under title VII [20 U.S.C. 3221 et seq.] and bilingual vocational education programs under the Vocational Education Act of 1963 [20 U.S.C. 2301 et seq.];

(12) demonstrate that the special educational needs of adult immigrants in the State have been examined, and provide for the implementation of adult education and adult basic education programs for immigrants to meet existing needs;

(13) set forth the criteria by which the State will evaluate the quality of proposals from local agencies, organizations, and institutions; and

(14) provide such further information and assurances as the Commissioner may by regulation require, including information regarding the extent to which the goals of the program have been achieved during the preceding three years.

(c) Hearing

The Commissioner shall not finally disapprove any State plan submitted under this chapter, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

(As amended Pub. L. 95-561, title XIII, § 1305, Nov. 1, 1978, 92 Stat. 2357.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(11), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152. Title VII of the 1965 Act, known as the Bilingual Education Act, was formerly classified to subchapter IV-A (§ 880b et seq.) of chapter 24 of this title, and is now classified generally to subchapter VII (§ 3221 et seq.) of chapter 47 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Vocational Education Act of 1963, referred to in subsec. (b)(11), is Pub. L. 88-210, title I, Dec. 18, 1963, 77 Stat. 403, which was classified to chapter 32 (§ 1241 et seq.) of this title, was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94-482, title II, § 202(a), Oct. 21, 1976, 90 Stat. 2169, and is now classified to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables. For additional details, see also the Codification note preceding section 1241 of this title.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561 added subsec. (a). Former subsec. (a) redesignated (b) and amended.

Subsec. (b). Pub. L. 95-561 redesignated subsec. (a) as (b) and, in subsec. (b) as so redesignated, revised the plan requisites to assure coordination and cooperation between adult education programs and a wide range of other State programs and to require a description of the means by which a number of organizations and institutions have been involved in the development and carrying out of the plan. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 95-561 redesignated subsec. (b) as (c).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1203, 1207, 1208b, 1209, 1211c, 1262, 3223 of this title.

§ 1206. Payments to States

(a) Federal share

The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be 90 per centum of the cost of carrying out the State's programs, except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share shall be 100 per centum.

(b) Amounts available from non-Federal sources

No payment shall be made to any State from its allotment for any fiscal year unless the Commissioner finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the second preceding fiscal year, but no State shall be required to use its funds to supplant any portion of the Federal share.

(As amended Pub. L. 95-561, title XIII, § 1306, Nov. 1, 1978, 92 Stat. 2359.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561 added references to Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.

Subsec. (b). Pub. L. 95-561 re-enacted subsec. (b) without change.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1211b, 1211c, 1232-1 of this title.

§ 1207. Cessation of payments for noncompliance with plan; hearings and judicial review

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1207a. Research, development, dissemination, evaluation, and information clearinghouse

(a) Program authority

(1) Subject to appropriations under this section, the Commissioner shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program—

(A) to develop new and promising approaches and innovative methods which are designed to address those problems and which may have national significance or be of special value in promoting effective programs under this Act, including one-year grants to States to plan for the expansion of their systems for the delivery of adult education services;

(B) to determine, using appropriate objective evaluation criteria, which projects and approaches assisted under clause (A) and under section 1208 of this title have achieved their stated goals and are capable of achieving comparable levels of effectiveness at additional locations; and

(C) to disseminate throughout the Nation information about those approaches or methods pertaining to adult basic education which are most effective, by establishing and operating a clearinghouse on adult education which shall collect, select, and disseminate to the public information pertaining to the education of adults, those approaches and methods of educating adults which are most effective, and ways of coordinating adult education programs with manpower and other education programs.

(2) The Commissioner shall directly, and through grants and contracts with public and private agencies, institutions and organizations, evaluate the effectiveness of programs conducted under section 1203 of this title.

(b) Special needs of individuals requiring adult education

In addition to the responsibilities of the Director under section 1221e of this title and subject to appropriations under this section, the Director of the National Institute of Education, in consultation with the Commissioner, shall directly, and through grants and contracts with public and private agencies, institutions, and organizations, carry out a program to conduct research on the special needs of individuals requiring adult education.

(c) Authorization of appropriations

There are authorized to be appropriated for the purposes of this section $1,500,000 for the fiscal year ending September 30, 1980, $2,000,000 for the fiscal year ending September 30, 1981, and $3,000,000 for each succeeding fiscal year prior to October 1, 1983.

(Pub. L. 89-750, title III, § 309, as added Pub. L. 95-561, title XIII, § 1307(b), Nov. 1, 1978, 92 Stat. 2360.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1)(A), means Pub. L. 89-750, Nov. 3, 1966, 80 Stat. 1191, known as the Elementary and Secondary Education Amendments of 1966. Title III of the Act, known as the Adult Education Act, is classified to this chapter. For complete classification of this Act to the Code, see Short Title of 1966 Amendment note set out under section 2701 of this title and Tables.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and

Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1208. Use of funds for special experimental demonstration projects and teacher training

CODIFICATION

Section 309 of Pub. L. 89-750 was renumbered 310 by Pub. L. 95-561, title XIII, § 1307(a)(1), Nov. 1, 1978, 92 Stat. 2359.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1207a of this title.

§ 1208-1. Repealed. Pub. L. 95-561, title XIII, § 1307(a)(2), Nov. 1, 1978, 92 Stat. 2359

Section, Pub. L. 89-750, title III, § 309A, as added Pub. L. 93-380, title VI, § 605, Aug. 21, 1974, 88 Stat. 577, provided for the establishment and operation of a clearinghouse on adult education. See section 1207a of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§ 1208a. Special projects for the elderly

[*See main edition for text of* (*a*)]

(b) Authorization of appropriations

For the purpose of making grants under this section there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, for each succeeding fiscal year ending prior to October 1, 1983.

[*See main edition for text of* (*c*)]

(Pub. L. 89-750, title III, § 311, formerly § 310, as added Pub. L. 93-29, title VIII, § 804(a), May 3, 1973, 87 Stat. 60, amended Pub. L. 94-135, title II, § 202, Nov. 28, 1975, 89 Stat. 726; Pub. L. 95-112, § 3(a)(1), Sept. 24, 1977, 91 Stat. 912, and renumbered and amended Pub. L. 95-561, title XIII, §§ 1307(a)(3), 1308, Nov. 1, 1978, 92 Stat. 2360.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-561, § 1308, substituted "fiscal year ending prior to October 1, 1983" for "fiscal year ending prior to October 1, 1979, and for the period beginning July 1, 1976, and ending September 30, 1976".

1977—Subsec. (b). Pub. L. 95-112 substituted "October 1, 1979" for "October 1, 1978".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1208b. State advisory councils

CODIFICATION

Section 310A of Pub. L. 89-750 was renumbered 312 by Pub. L. 95-561, title XIII, § 1307(a)(3), Nov. 1, 1978, 92 Stat. 2360.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1209. National Advisory Council on Adult Education

[*See main edition for text of* (*a*)]

(b) Membership; meetings; termination

The Council shall consist of fifteen members who shall, to the extent possible, include persons knowledgeable in the field of adult education, including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, State and local public school officials, and other persons having special knowledge and experience, or qualifications with respect to adult education, including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, and persons representative of the general public. The Council shall meet initially at the call of the Commissioner and elect from its number a chairman. The Council will thereafter meet at the call of the chairman, but not less often than twice a year. Subject to section 1233g(b) of this title, the Council shall continue to exist until October 1, 1984.

[*See main edition for text of* (*c*) *and* (*d*)]

(Pub. L. 89-750, title III, § 313, formerly § 310, Nov. 3, 1966, 80 Stat. 1220, amended Pub. L. 91-230, title III, § 301, Apr. 13, 1970, 84 Stat. 163, renumbered title III, § 311, Pub. L. 93-29, title VIII, § 804(a), May 3, 1973, 87 Stat. 59, amended Pub. L. 93-380, title VI, § 607(b)(3), title VIII, § 845(f), Aug. 21, 1974, 88 Stat. 579, 612; Pub. L. 94-273, § 3(10), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94-482, title V, § 501(a)(22), Oct. 12, 1976, 90 Stat. 2236; Pub. L. 95-112, § 3(a)(2), Sept. 24, 1977, 91 Stat. 912, and renumbered title III, § 313, and amended Pub. L. 95-561, title XIII, §§ 1307(a)(3), 1309, Nov. 1, 1978, 92 Stat. 2360, 2361.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-561, § 1309, substituted "October 1, 1984" for "October 1, 1979".

1977—Subsec. (b). Pub. L. 95-112 substituted "October 1, 1979" for "October 1, 1978".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1210. Grants for sectarian instruction, religious worship, or school or department of divinity prohibited

CODIFICATION

Section 312 of Pub. L. 89-750 was renumbered 314 by Pub. L. 95-561, title XIII, § 1307(a)(3), Nov. 1, 1978, 92 Stat. 2360.

§ 1211. Authorization of appropriations

(a) Except as otherwise provided, there are authorized to be appropriated $210,000,000 for fiscal year 1979; $230,000,000 for fiscal year 1980; $250,000,000 for fiscal year 1981; $270,000,000 for fiscal year 1982; and $290,000,000 for fiscal year 1983 to carry out the provisions of this chapter.

(b) There are further authorized to be appropriated for each such fiscal year such sums, not to exceed 5 per centum of the amount appropriated pursuant to subsection (a) of this section for that year, as may be necessary to pay the cost of the administration and development of State plans, and other activities required pursuant to this chapter. The amount provided to a State under this subsection shall not be less than $50,000 for any fiscal year, except that such amount shall not be less than $25,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(Pub. L. 89-750, title III, § 315, formerly § 314, Nov. 3, 1966, 80 Stat. 1222, amended Pub. L. 90-247, title V, § 504, Jan. 2, 1968, 81 Stat. 815, renumbered title III, § 312, and amended Pub. L. 91-230, title III, § 301, Apr. 13, 1970, 84 Stat. 164; Pub. L. 91-600, § 3(b), Dec. 30, 1970, 84 Stat. 1669, renumbered title III, § 313, and amended Pub. L. 93-29, title VIII, § 804, May 3, 1973, 87 Stat. 59, 60; Pub. L. 93-380, title VI, § 608(a), Aug. 21, 1974, 88 Stat. 579; Pub. L. 95-112, § 3(b), Sept. 24, 1977, 91 Stat. 912, and renumbered title III, § 315, and amended Pub. L. 95-561, title XIII, §§ 1307(a)(3), 1310, Nov. 1, 1978, 92 Stat. 2360, 2361.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561, § 1310, substituted provisions authorizing appropriations for fiscal years 1979, 1980, 1981, 1982, and 1983 for provisions authorizing appropriations of $160,000,000 for fiscal year 1970, $200,000,000 for fiscal year 1971, $225,000,000 for fiscal years 1972 and 1973, $150,000,000 for fiscal years 1974 and 1975, $175,000,000 for fiscal year 1976, and $200,000,000 for fiscal years 1977, 1978, and 1979.

Subsec. (b). Pub. L. 95-561, § 1310, substituted provisions setting minimum amounts of $50,000 per year to a State but with a minimum of $25,000 per year in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for provisions which had prohibited any construction of this subsection which might have prevented the use of appropriated amounts to pay the costs of administration and development of State plans and other necessary activities.

1977—Subsec. (a). Pub. L. 95-112 substituted "for the fiscal year ending September 30, 1977, and for each of the succeeding fiscal years ending prior to October 1, 1979" for "for each of the fiscal years ending June 30, 1977, and June 30, 1978".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§ 1211a. Grants for improvement of educational opportunities for adult Indians

(a) Planning, pilot, and demonstration projects

The Commissioner shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians—

[*See main edition for text of* (*1*) *to* (*3*)]

(4) to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians;

[*See main edition for text of* (*5*)]

(b) Educational services and programs specifically designed to improve educational opportunities

The Commissioner is also authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

(c) Dissemination of information; evaluation of federally assisted programs

The Commissioner is also authorized to make grants to, and contracts with, public agencies, and institutions, and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(2) the evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

(d) Applications for grants; submission; manner; contents; tribal participation; Indians, priority

Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

(1) set forth a statement describing the activities for which assistance is sought;

(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (a) of this section unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a) of this section, the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

(e) Authorization of appropriations

For the purpose of making grants under this section there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $8,000,000 for each of the succeeding fiscal years ending prior to October 1, 1983.

(Pub. L. 89-750, title III, § 316, formerly § 314, as added Pub. L. 92-318, title IV, § 431, June 23, 1972, 86 Stat. 342, amended Pub. L. 93-380, title VI, § 608(b), Aug. 21, 1974, 88 Stat. 579; Pub. L. 95-112, § 3(c), Sept. 24, 1977, 91 Stat. 912, and renumbered and amended Pub. L. 95-561, title XIII, §§ 1307(a)(3), 1311, Nov. 1, 1978, 92 Stat. 2360, 2361, as amended by Pub. L. 96-46, § 2(a)(6), Aug. 6, 1979, 93 Stat. 340.)

Amendments

1979—Section 1311 of Pub. L. 95-561, set out in the credit to this section, was amended by section 2(a)(6) of Pub. L. 96-46 to clarify the amendments to this section by section 1311 by correcting technical errors in the directory language of the amendments. See 1978 Amendment notes set out below.

1978—Subsec. (a)(4). Pub. L. 95-561, § 1311(a)(1), substituted "among Indians" for "on Indian reservations".

Subsec. (b). Pub. L. 95-561, § 1311(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsecs. (c), (d). Pub. L. 95-561, § 1311(a)(2), redesignated subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (e). Pub. L. 95-561, § 1311(a)(2), (b), redesignated subsec. (d) as (e) and, in subsec. (e) as so redesignated, substituted "October 1, 1983" for "October 1, 1979".

1977—Subsec. (d). Pub. L. 95-112 substituted "October 1, 1979" for "July 1, 1978".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1221f, 1221g, 3385 of this title.

§ 1211b. Grants for operation of special adult education programs for Indochina refugees

(a) Authority of Commissioner to make grants to State and local education agencies; purposes of grants

From the appropriations authorized for the period beginning July 1, 1976, and ending September 30, 1983, but not appropriated for other programs under this title, the Commissioner shall carry out a program of making grants to State and local education agencies for such years for the purpose of operating special adult education programs for Indochina refugees, as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975. Such grants may be used for—

[*See main edition for text of (1) to (4); (b) to (d)*]

(Pub. L. 89-750, title III, § 317, formerly § 315, as added Pub. L. 94-405, title III, § 301, Sept. 10, 1976, 90 Stat. 1233, and renumbered and amended Pub. L. 95-561, title XIII, §§ 1307(a)(3), 1312, Nov. 1, 1978, 92 Stat. 2360, 2361.)

References in Text

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (a)(4), is Pub. L. 92-203, Dec. 28, 1973, 87 Stat. 839, as amended, now known as the Comprehensive Employment and Training Act, which is classified generally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables.

Amendments

1978—Subsec. (a). Pub. L. 95-561, § 1312, substituted "1983" for "1977".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Indochina Refugee Children Assistance

Titles I and II of Pub. L. 94-405, as amended by Pub. L. 95-561, title XIII, § 1331, Nov. 1, 1978, 92 Stat. 2363, as amended by Pub. L. 96-46, § 2(a)(7), Aug. 6, 1979, 93 Stat. 340, provided that:

[*See main edition for text of Title I*]

"TITLE II—PROGRAM FOR SUBSEQUENT FISCAL YEARS

"APPLICABILITY; DEFINITIONS

"Sec. 201. (a) The provisions of this title shall be applicable for the period beginning July 1, 1976, and ending September 30, 1977, and for the period beginning October 1, 1978, and ending September 30, 1981.

"(b) As used in this title—

"(1) The term 'Commissioner' means the Commissioner of Education.

"(2) The term 'elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(3) The term 'Indochinese refugee children' means children who are refugees within the meaning of that term as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975 [set out as a note under section 2601 of title 22], and who are paroled into the United States by the Attorney General pursuant to section 212(d)(5) of the Immigration and Naturalization Act [section 1182(d)(5) of Title 8, Aliens and Nationality] on or after January 1, 1977.

[*See main edition for text of (4) to (8)*]

"STATE ENTITLEMENTS

"Sec. 202. (a) The Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for the period July 1, 1976, through September 30, 1977, and for the period October 1, 1978, through September 30, 1981, for the purposes set forth in section 203.

"(b)(1) Except as provided in subsection (d) of this section, the maximum amount of the grant to which a State educational agency is eligible to receive under this title, for the period beginning July 1, 1976, and ending September 30, 1977, and for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1981, shall be equal to the sum of—

"(A) the number of Indochinese refugee children aged 5 to 17, inclusive, receiving public educational services under the supervision of each local educational agency within that State during the period for which the determination is made;

multiplied by—

"(B) an amount not to exceed $450.

"(2) For the purpose of this subsection, the term 'State' does not include American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

[*See main edition for text of (c) to (e)*]

"USES OF FUNDS

"Sec. 203. Payments made under this title to any State may be used only in accordance with the provisions of section 103.

"ALLOCATION OF APPROPRIATIONS

"Sec. 204. (a) If the sums appropriated for the period from July 1, 1976, to September 30, 1977, and for the period October 1, 1978, through September 30, 1981, for making the payments provided for in this title are not sufficient to pay in full the total amounts which State educational agencies are entitled to receive under this title for such period, the allocations to such State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated.

"(b) In the event that funds become available for making payments under this title for such period after allocations have been made under subsection (a) for that period, the amounts reduced under subsection (a) shall be increased on the same basis as they were reduced.

"APPLICATIONS

"Sec. 205. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

"(2) provide that payments under this title will be used for purposes set forth in section 203;

"(3) provide such data and assurances as the Commissioner may prescribe—

"(A) to demonstrate that the costs of the additional services for which the payment will be made are the direct result of the presence of Indochinese refugee children and that those additional instructional services will actually be provided to those children for the duration of the period for which assistance is made available under this title; and

"(B) to demonstrate that such payments are distributed between the State educational agency and the local educational agencies within the State in proportion to the contribution to such costs by each such agency;

[*See main edition for text of (4) to (6); (b)*]

"PAYMENTS

"Sec. 206. (a) The Commissioner shall pay to each State educational agency having an application approved under section 205 the amount which that State is entitled to receive under this title.

"(b) The Commissioner is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any period shall not exceed 5 per centum of the amounts which that State educational agency is entitled to receive for that period under this title.

[*See main edition for text of (c); Sec. 207*]

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 208. There are authorized to be appropriated for the period beginning July 1, 1976, and ending September 30, 1977, and for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1982, such sums as may be necessary to make payments to which State educational agencies are entitled under this title and payments for administration under section 206(b)."

§ 1211c. Adult education program for adult immigrants

(a) Grant and contract authority

The Commissioner is authorized to enter into grants and contracts with State and local education agencies and other public or private nonprofit agencies, organizations, or institutions to provide programs of adult education and adult basic education to immigrant adults in need of such services. Such grants and contracts may be used for—

(1) programs of instruction of adult immigrants in basic reading, mathematics, development, and enhancement of necessary skills, and promotion of literacy among adult immigrants for the purpose of enabling them to become productive members of American society;

(2) administrative costs of planning and operating such programs of instruction;

(3) educational support services which meet the need of adult immigrants including but not limited to guidance and counseling with regard to educational, career, and employment opportunities; and

(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 [29 U.S.C. 801 et seq.] or under the Vocational Education Act of 1963 [20 U.S.C. 2301 et seq.].

(b) Application to State educational agency

(1) Any applicant for a grant or contract under this section shall first submit its application to the State educational agency. The State educational agency shall expeditiously review and make recommendations to the Commissioner regarding the quality of each such application, consistent with the purposes of section 1205(b)(12) and (13) of this title. A copy of the recommendations made by the State educational agency shall be simultaneously submitted to the applicant.

(2) Any applicant which has submitted an application in accordance with paragraph (1) of this subsection, which is dissatisfied with the action of the appropriate State educational agency may petition the Commissioner to request further consideration by the Commissioner of such application.

(c) Time, manner, and form of application

Applications for a grant or contract under this section shall be submitted at such time, in such manner, and contain such information as the Commissioner may reasonably require.

(d) Payment by Commissioner of application costs

Notwithstanding the provisions of sections 1204 and 1206(a) of this title, the Commissioner shall pay all the costs of applications approved by him under this section.

(e) Contracts with private nonprofit groups

Not less than 50 per centum of the funds appropriated under this section shall be used by the Commissioner to enter into contracts with private nonprofit agencies, organizations, and institutions.

(f) Authorization of appropriations

For the purposes of making grants and entering into contracts under this section, there is hereby authorized to be appropriated such sums as may be necessary for fiscal year 1979 and each of the four succeeding fiscal years.

(Pub. L. 89-750, title III, § 318, as added Pub. L. 95-561, title XIII, § 1313, Nov. 1, 1978, 92 Stat. 2361.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (a)(4), is Pub. L. 92-203, Dec. 28, 1973, 87 Stat. 839, as amended, which is classified generally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables.

The Vocational Education Act of 1963, referred to in subsec. (a)(4), is Pub. L. 88-210, title I, Dec. 18, 1963, 77 Stat. 403, which was classified to chapter 32 (§ 1241 et seq.) of this title, and was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94-482, title II, § 202(a), Oct. 21, 1976, 90 Stat. 2169, and is now classified to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables. For additional details, see also the Codification note preceding section 1241 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 31—GENERAL PROVISIONS CONCERNING EDUCATION

Sec.
1221-3. Control of paperwork [New].
  (a) Coordination of activities; Federal Education Data Acquisition Council; procedures.
  (b) Review and coordination activities of Secretary; research and evaluation studies.
  (c) Summaries of information collected and data acquired.
  (d) Functions and operations.
  (e) Submission of information to a single educational agency; report to Congress.
  (f) Grants.
  (g) Authorization of appropriations.

SUBCHAPTER I—EDUCATION DIVISION OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

1221e-1a. State responsibility to furnish information.
  (a) Report to Commissioner; contents.
  (b) Report analysis and statistical data; submittal to congressional committees.
1221j. Television program assistance; granting and contracting authority; administration, etc. [New].

SUBCHAPTER II—APPROPRIATIONS AND EVALUATIONS

PART 1—APPROPRIATIONS

1226a-1. Payments; installments, advances or reimbursement, and adjustments.

PART 2—PLANNING AND EVALUATION OF FEDERAL EDUCATION ACTIVITIES

1226c-1. Availability of education reports, etc., to Congressional committees [New].

SUBCHAPTER III—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL AUTHORITY OF COMMISSIONER OF EDUCATION

PART I—GENERAL AUTHORITY

1231c-1. Equalization assistance [New].
  (a) Grants for development and implementation of plans to achieve resource equalization.
  (b) Models and materials; training centers.
  (c) Dissemination of information.
  (d) Authorization of appropriations.

PART II—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

1231g. Applications [New].
  (a) Submission and amendments of applications.
  (b) Uniform dates.
  (c) Development of common applications.

PART III—ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS BY STATES AND LOCAL EDUCATIONAL AGENCIES

Sec.
1232c. State educational agency monitoring and enforcement [New].
  (a) State plan.
  (b) State enforcement of Federal requirements.
1232d. Single State application [New].
  (a) Submission of general application; approval by State supervisory authority.
  (b) Assurances.
  (c) Effective term of general application.
1232e. Single local educational agency application [New].
  (a) General application to State agency or board.
  (b) Assurances.
  (c) Effective term of general application.

PART IV—RECORDS; PRIVACY; LIMITATION ON WITHHOLDING FEDERAL FUNDS

1232f. Records [New].
  (a) Records kept by recipient; full disclosure; five-year maintenance period.
  (b) Audit examination.

SUBCHAPTER V—ENFORCEMENT [NEW]

1234. Education Appeal Board.
  (a) Establishment; functions.
  (b) Designation of members.
  (c) Membership; Chairman.
  (d) Hearing panels.
  (e) Rules and regulations.
  (f) Use of established appeal board authorized.
1234a. Audit determinations.
  (a) Final audit determination; written notice to State or local educational agency.
  (b) Application for review; procedure in case of insufficient detail.
  (c) Collection of amount owing to await final decision.
  (d) Finality.
  (e) Establishment of amount owing.
  (f) Compromise of claims.
  (g) Five-year limitation period.
  (h) Board personnel.
1234b. Withholdings.
  (a) Notification of intention to withhold.
  (b) Notice and hearing.
  (c) Suspension of payments pending outcome of proceedings.
  (d) Finality of decision.
1234c. Cease and desist orders.
  (a) Complaint.
  (b) Appearance before Board.
  (c) Testimony; report; findings of fact; issuance and service of order.
  (d) Finality.
  (e) Enforcement.
1234d. Judicial review.
  (a) Entitlement to judicial review.
  (b) Petition for review.
  (c) Conclusiveness of findings of fact; remand to take further evidence.
  (d) Disposition of proceedings by court; review by United States Supreme Court.
1234e. Use of recovered funds.
  (a) Repayment.
  (b) Conditions.
  (c) Three-year availability period.
  (d) Notice of proposed arrangements.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1652, 2738, 2811, 2815, 2816, 2831, 2834, 2836, 2837, 3143, 3147, 3148, 3441, 3487 of this title.

§ 1221. General provisions

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

MODIFICATION OF EXECUTIVE ORDER NO. 11761

Ex. Ord. No. 11761, Jan. 17, 1974, 39 F.R. 2345, set out as a note under this section, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 7151 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1221g, 1226b, 1227 of this title.

§ 1221-1. National policy with respect to equal educational opportunity

FINANCING OF ELEMENTARY AND SECONDARY EDUCATION; STUDIES AND SURVEYS; ADVISORY PANEL; REPORTS

Pub. L. 95-561, title XII, § 1203, Nov. 1, 1978, 92 Stat. 2335, as amended by Pub. L. 96-46, § 2(a)(4), Aug. 6, 1979, 93 Stat. 340, provided that:

"(a) It is the purpose of this section to provide for—

"(1) the availability of reliable and comparative data on the status and trends in financing elementary and secondary education;

"(2) the conduct of studies necessary to understand and analyze the trends and problems affecting the financing of elementary and secondary education, both public and non-public, including the prospects for adequate financing during the next ten years; and

"(3) the development of recommendations for Federal policies to assist in improving the equity and efficiency of Federal and State systems for raising and distributing revenues to support elementary and secondary education.

"(b) In order to carry out the purposes of this section, the Secretary shall carry out the studies and surveys set forth in subsection (e) relating to the financing of elementary and secondary education.

"(c)(1) In order to provide the Secretary and the Congress with advice and counsel from distinguished and knowledgeable members of the public on the conduct of the activities authorized under this section, there is established within the Department of Health, Education, and Welfare an Advisory Panel on Financing Elementary and Secondary Education to be composed of fifteen members appointed by the President. The Panel shall include (A) representatives of public and non-public elementary and secondary education, including board members, administrators, and teachers, (B) State and local officials, (C) citizens, and (D) scholars of school finance.

"(2) The members of the Advisory Panel shall be appointed, without regard for the provisions of title 5, United States Code, governing appointments in the competitive service, not later than sixty days after the enactment of this section [Nov. 1, 1978].

"(3) Members who are not in the regular full-time employ of the United States shall, while attending to the business of the Advisory Panel, be entitled to receive compensation at the daily rate prescribed for grade 18 in section 5332 of such title 5, including travel time. All members while serving on the business of the Advisory Panel away from their homes or regular places of business, may be allowed travel expenses in accordance with section 5703 of title 5.

"(4) The Advisory Panel shall provide periodic advice to the Secretary concerning all activities conducted under this section. The Secretary shall make available to the Advisory Panel such technical and other assistance as may be necessary to enable the Advisory Panel to carry out its responsibilities.

"(5) The views and recommendations of the Advisory Panel shall be presented to the White House Conference on Education called pursuant to the provisions of section 804 of the Education Amendments of 1974 [set out as a note under this section].

"(6) Sixty days after the submission of the final report under subsection (f) of this section, the Advisory Panel shall terminate.

"(7) There are authorized to be appropriated such sums as may be necessary for fiscal years 1979 and 1980 to carry out the provisions of this subsection.

"(8) [This paragraph amended section 804(c)(1) of Pub. L. 93-380 and those amendments have been executed to the note set out under this section].

"(d) The studies and surveys conducted under this section shall consider (1) the prospects for adequate financing of elementary and secondary schools during the ten year period from October 1, 1979, through September 30, 1989, and (2) the distribution of financial resources for elementary and secondary education among the States, among school districts within the States, and among schools within school districts. The Secretary shall have the authority necessary to achieve coordination, avoid redundancy, and insure the high quality of the studies and surveys carried out under this section and to ensure the relevance of those studies to the objectives of this section.

"(e) The studies and surveys carried out under this section shall include—

"(1) an analysis of the capacity of educational finance systems to provide adequate school revenues, including an examination of future trends in educational service requirements, cost of supplying these services, and available school revenues from Federal, State, and local sources, taking account of noneducational service demands on revenues:

"(2) to the extent feasible, the development of procedures for the conduct of the activities of the National Center for Education Statistics under section 406(i) of the General Education Provisions Act [section 1221e-1(i) of this title]:

"(3) an analysis of the recent trends in the distribution of these resources including (A) an examination of recent court and State legislative developments, (B) case studies of States showing the greatest degree of equalization of resources in order to determine whether common elements exist leading to such equalization, and (C) special analyses of the effects of such recent trends on school districts in large urban areas and in poor rural areas and the effects of such trends on students who are members of minority groups, or who are economically or educationally disadvantaged or handicapped;

"(4) an analysis of standards to measure inter-State, intra-State, and intradistrict equalization, including an examination of the standards showing disparities in expenditures, variations from fiscal neutrality, weightings of classes of pupils, and applications of these standards to an illustrative number of States, school districts, and schools;

"(5) an analysis of the impact of Federal and State education programs on the distribution of State and local educational resources and of the relationship between such Federal and State programs;

"(6) recommendations for alternative Federal roles in the context of the total responsibility for financing schools among local, State, and Federal levels, including recommendations for changes in current Federal programs and suggestions for new Federal programs to promote greater equalization;

"(7) an analysis of the impact of school finance equalization on the cost and quality of education programs, including particularly the quality of education programs in those districts recognized as educational leaders prior to equalization;

"(8) an analysis of the effects of school finance equalization on curricular and extracurricular activities related to the arts, athletics, foreign languages, music, and other programs or activities of special value, or enrichment, or which especially serve the needs or talents of a limited sector of the preschool, elementary, or secondary school population;

"(9) an analysis of the effects of school finance equalization on the distribution of tax burdens by level of government, type of revenue, and family income of taxpayers;

"(10) an analysis of current and future Federal assistance for non-public elementary and secondary education, including the extent of non-public participation in Federal programs, trends in enrollments and costs of private education, the impact of private schools on public school enrollments and financial support, and an examination of alternative Federal policies for support of private education; and

"(11) an analysis of the extent to which school districts participate in programs administered by Federal agencies other than the Education Division of the Department of Health, Education, and Welfare which analysis (A) shall include an assessment of barriers to school district participation in programs which have general purpose governments as primary beneficiaries and (B) shall explore alternative coordinating mechanisms to achieve equitable school district participation in such programs.

The studies described in this section shall be assigned to such organizational units within the Department as the Secretary deems appropriate. All studies and surveys described in this section shall utilize existing information to the extent possible, and shall require the collection of new information only as may be required. Appropriate resources shall be made available to reimburse respondents for costs associated with any additional data collection required by this section.

"(f) The Secretary and the Advisory Panel shall make interim reports to the President and the Congress no later than December 31, 1980, and December 31, 1981, and shall make a final report thereto no later than December 31, 1982, on the results of the studies conducted under this section. The Secretary and the Advisory Panel shall provide comments on each of the above reports and such additional recommendations, including recommendations for legislation, as the Secretary and the Panel may deem appropriate to the President and to the Congress no later than sixty days after the submission of such reports. Any other provisions of law, rule, or regulation to the contrary notwithstanding, such reports of the Panel shall not be submitted to any review outside of the Panel before their transmittal to the Congress, but the President and the Secretary may make to the Congress such recommendations with respect to the contents of the reports as each may deem appropriate.

"(g)(1) The Secretary shall submit to the Congress, within one hundred and twenty days after the date of the enactment of the Act [Nov. 1, 1978], a plan for studies to be conducted under this section. The Secretary shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Secretary shall not commence such studies until the first day after the close of the first period of sixty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

"(2) For the purposes of paragraph (1)—

"(A) continuity of session is broken only by adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

"(h) Sums made available pursuant to section 183 of the Elementary and Secondary Education Act of 1965 [section 2833 of this title] and other funds available to any agency of the Department of Health, Education, and Welfare for purposes consistent with this section, shall be available to carry out the provisions of this section.

"(i) For purposes of this section, the term 'State' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico."

White House Conference on Education: Report of Findings and Recommendations; National Conference Committee: Establishment, Membership, Report to President and Congress, Travel Expenses; Apportionment of Funds; Authorization of Appropriations

Pub. L. 93-380, § 804, as amended by Pub. L. 95-272, title III, § 301, May 3, 1978, 92 Stat. 227; Pub. L. 95-561, title XII, § 1203(c)(8), Nov. 1, 1978, 92 Stat. 2335, provided that:

"(a) The President is authorized to call and conduct a White House Conference on Education in 1980 (hereafter in this section referred to as the 'Conference') in order to stimulate a national assessment of the condition, needs, and goals of education and to obtain from a group of citizens broadly representative of all aspects of education, both public and nonpublic, a report of findings and recommendations with respect to such assessment.

[*See main edition for text of* (*b*)]

"(c)(1) There is established a National Conference Committee (hereafter in this section referred to as the 'Committee'), composed of not more than forty-one members, twenty-one of whom shall be appointed by the President, ten of whom shall be appointed by the President pro tempore of the Senate, and ten of whom shall be appointed by the Speaker of the House of Representatives. Six of the members appointed by the President shall be members of the Advisory Panel on Financing Elementary and Secondary Education. The Committee shall at its first meeting select a Chairman and a Vice Chairman.

"(2)(A) The Committee shall provide guidance and planning for the Conference and shall make a final report (and such interim reports as may be desirable) of the results, findings, and recommendations of the Conference to the President and to the Congress not later than December 1, 1980.

[*See main edition for text of* (*B*), (*3*) *to* (*5*); (*d*)]

"(e) There are authorized to be appropriated, without fiscal year limitations, such sums as may be necessary to carry out the purposes of this section; and sums so appropriated shall remain available for expenditure until September 30, 1981.

[*See main edition for text of* (*f*)]

§ 1221-3. Control of paperwork

(a) Coordination of activities; Federal Education Data Acquisition Council; procedures

(1)(A) In order to eliminate excessive detail and unnecessary and redundant information requests and to achieve the collection of information in the most efficient and effective possible manner, the Secretary shall coordinate the collection of information and data acquisitioned activities of all Federal agencies, (i) whenever the respondents are primarily educational agencies or institutions, and (ii) whenever the purpose of such activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

(B) There is hereby established a Federal Education Data Acquisition Council, to consist of members appointed by the Secretary who shall represent the public and the major agencies which collect and use education data, including one representative each of the Office of Management and Budget and of the Office of Federal Statistical Policy and Standards. The members representing the public may be appointed for not more than three years. The Council shall advise and assist the Secretary with respect to the improvement, development, and coordination of Federal education information and data acquisition activities, and shall review the policies, practices, and procedures established by the Secretary. The Council shall meet regularly during the year and shall be headed by an individual from an agency which has expertise in data collection but which undertakes no major data collection of education data.

(2) For the purposes of this section, the term—

(A) "information" has the meaning given it by section 3502 of title 44;

(B) "Federal agency" has the meaning given it by section 3502 of the same title; and

(C) "educational agency or institution" means any public or private agency or institution offering education programs.

(3)(A) The Secretary shall review and coordinate all collection of information and data acquisition activities described in paragraph (1)(A) of this subsection, in accordance with procedures approved by the Federal Education Data Acquisition Council. Such procedures shall be designed in order to enable the Secretary to determine whether proposed collection of information and data acquisition activities are excessive in detail, unnecessary, redundant, ineffective, or excessively costly, and, if so, to advise the heads of the relevant Federal agencies.

(B) No collection of information or data acquisition activity subject to such procedures shall be subject to any other review, coordination, or approval procedure outside of the relevant Federal agency except as required by this subsection and except that an aggrieved agency may seek review of an adverse action by the Secretary under subparagraph (A) by the Director of the Office of Management under the rules and regulations established pursuant to section 3509 of title 44, and the Director shall issue a decision thereon within 10 days after receipt of the request for review.

(C) The procedures established by the Secretary shall include a review of plans for evaluations and for research when such plans are in their preliminary stages, in order to give advice to the heads of Federal agencies regarding the data acquisition aspects of such plans.

(b) Review and coordination activities of Secretary; research and evaluation studies

(1) The Secretary shall assist each Federal agency in performing the review and coordination required by this section and shall require of each agency a plan for each collection of information and data acquisition activity, which shall include—

(A) a detailed justification of how information once collected will be used;

(B) the methods of analysis which will be applied to such data;

(C) the timetable for the dissemination of the collected data; and

(D) an estimate of the costs and man-hours required by each educational agency or institution to complete the request and an estimate of costs to Federal agencies to collect, process, and analyze the information, based upon previous experience with similar data or upon a sample of respondents.

(2) In performing the review and coordination required by this section, the Secretary shall assure that—

(A) no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the February 15 immediately preceding the beginning of the new school year, unless there is an urgent need for this information or a very unusual circumstance exists regarding it;

(B) sampling techniques, instead of universal responses, will be used wherever possible, with special consideration being given to the burden being placed upon small school districts, colleges, and other educational agencies and institutions; and

(C) no request for information or data will be approved if such information or data exist in the same or a similar form in the automated indexing system required to be developed pursuant to subsection (d) of this section.

(3) Each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a thirty-day period, to comment to the Secretary on the collection of information and data acquisition activity. The exact data instruments for each proposed activity shall be available to the public upon request during this comment period.

(4) No changes may be made in the plans for the acquisition of that information or data, except changes required as a result of the review described in this section, after such plans have been finally approved under this section, unless the changed plans go through the same approval process.

(5) The Secretary may waive the requirements of this section for individual research and evaluation studies which are not designated for individual project monitoring or review, provided that—

(A) the study shall be of a nonrecurring nature;

(B) any educational agency or institution may choose whether or not to participate, and that any such decision shall not be used by any Federal agency for purposes of individual project monitoring or funding decisions;

(C) the man-hours necessary for educational agencies and institutions to respond to requests for information or data shall not be excessive, and the requests shall not be excessive in detail, unnecessary, redundant, ineffective, or excessively costly; and

(D) the Federal agency requesting information or data has announced the plans for the study in the Federal Register.

The Secretary shall inform the relevant agency or institution concerning the waiver decision within thirty days following such an announcement, or the study shall be deemed waived and may proceed. Any study waived under the provisions of this subsection shall be subject to no other review than that of the agency requesting information or data from educational agencies or institutions.

(6) Nothing in this section shall be construed to interfere with the enforcement of the provisions of the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] or any other nondiscrimination provision of Federal law.

(c) Summaries of information collected and data acquired

The Secretary shall, insofar as practicable, and in accordance with the provisions of this chapter, provide educational agencies and institutions and other Federal agencies, pursuant to the requirement of section 1221e-1(f)(2)(A) of this title, with summaries of information collected and the data acquired by Federal agencies, unless such data were acquired on a confidential basis.

(d) Functions and operations

The Secretary shall, insofar as practicable—

(1) develop standard definitions and terms consistent, wherever possible, with those established by the Office of Federal Statistical Policy and Standards, Department of Commerce, to be used by all Federal agencies in dealing with education-related information and data acquisition requests;

(2) develop an automated indexing system for cataloging all available data;

(3) establish uniform reporting dates among Federal agencies for the information and data acquisition required after review under this section;

(4) publish annually a listing of education data requests, by Federal agency, and for the programs administered in the Education Division, publish a listing annually of each such program with its appropriation and with the data burden resulting from each such program; and

(5) require the Federal agency proposing the collection of information or data acquisition activity to identify in its data instrument the legislative auhority[1] specifically requiring such collection, if any, and require the responding educational agency or institution to make the same identification if it in turn collects such information or data from other agencies or individuals.

(e) Submission of information to a single educational agency; report to Congress

(1) Subject to the provisions of paragraph (2), the Secretary shall develop, in consultation with Federal and State agencies and local educational agencies, procedures whereby educational agencies and institutions are permitted to submit information required under any Federal educational program to a single Federal or State educational agency.

(2) Any procedures developed under paragraph (1) shall be considered regulations for the purpose of section 1232 of this title and

---

[1] So in original. Probably should be "authority".

shall be submitted subject to disapproval in accordance with section 1232(e) of this title for a period of not to exceed 60 days computed in accordance with such section.

(3) The Secretary shall submit a report to the Congress not less than once every three years, describing the implementation of this section. Such report shall contain recommendations for revisions to Federal laws which the Secretary finds are imposing undue burdens on educational agencies and institutions, and such recommendations shall not be subject to any review by any Federal agency outside the Department.

(f) Grants

(1) The Secretary is authorized to make grants from sums appropriated pursuant to this subsection to State educational agencies, including State agencies responsible for postsecondary education, for the development or improvement of education management information systems.

(2) Any State educational agency is eligible for a grant of funds under this subsection subject to the following conditions:

(A) The agency agrees to use such funds for the development or improvement of its management information system and agrees to coordinate all data collection for Federal programs administered by the agency through such a system.

(B) The agency agrees to provide funds to local educational agencies and institutions of higher education for the development or improvement of management information systems when such grants are deemed necessary by the State educational agency.

(C) The State agency agrees to take specific steps, in cooperation with the Secretary and with local educational agencies or institutions of higher education in the State, as appropriate, to eliminate excessive detail and unnecessary and redundant information requests within the State and to achieve the collection of information in the most efficient and effective possible manner so as to avoid imposing undue burdens on local educational agencies or institutions of higher education.

(g) Authorization of appropriations

For the purpose of carrying out this subsection—

(1) there are authorized to be appropriated for salaries and expenses $600,000 for fiscal year 1979, $1,000,000 for fiscal year 1980, and $1,200,000 for each of the two succeeding fiscal years;

(2) there are authorized to be appropriated for grants under subsections (f)(1) and (2) of this section the sums of $5,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, and $50,000,000 for each of the two succeeding fiscal years; and

(3) the sums appropriated according to paragraphs (1) and (2) shall be appropriated as separate line items.

(Pub. L. 90-247, title IV, § 400A, as added Pub. L. 95-561, title XII, § 1212(b), Nov. 1, 1978, 92 Stat. 2338, and amended Pub. L. 96-46, § 4(a), Aug. 6, 1979, 93 Stat. 342.)

References in Text

The Civil Rights Act of 1964, referred to in subsec. (b)(6), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended, which is classified principally to subchapters II to IX (§ 2000a et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 2000a of Title 42 and Tables.

Amendments

1979—Subsec. (e)(3). Pub. L. 96-46, § 4(a)(1), redesignated former subsec. (f), which related to reports to Congress, as subsec. (e)(3).

Subsec. (g). Pub. L. 96-46, § 4(a)(2), substituted "subsections (f)(1) and (2) of this section" for "paragraph (6)".

Effective Date of 1979 Amendment

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

Effective Date

Section effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Short Title

Section 1211 of Pub. L. 95-561 provided that: "This part [enacting this section and section 1231g of this title and amending section 1221e-1 of this title] may be cited as the 'Control of Paperwork Amendments of 1978'."

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER I—EDUCATION DIVISION OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

§§ 1221a, 1221b

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1221c. Office of Education

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Bureaus and divisions; regional offices; location, functions, information centers, technical assistance, delegation of functions; reports to congressional committees

[*See main edition for text of* (*1*) *and* (*2*)]

(3) The Commissioner shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives not later than February 1 of each year a report on the personnel needs and assignments of the Office. Such report shall include a description (A) of the manner in which the Office is organized and the personnel of the Office are as-

signed to the various functions of that agency and (B) of personnel needs of that agency in order to enable it to carry out its functions, as authorized by law.

(d) Office of Non-Public Education

(1) There shall be, in the Office of Education, an Office of Non-Public Education to insure the maximum potential participation of nonpublic school students in all Federal educational programs for which such children are eligible.

(2) The Office shall be headed by the Deputy Commissioner for Non-Public Education, who shall be appointed by the Commissioner.

(As amended Pub. L. 95-561, title XII, § 1241, Nov. 1, 1978, 92 Stat. 2351; S. Res. 30, Mar. 7, 1979.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-561 added subsec. (d).

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1221d. Grants and contracts for improvement of postsecondary education

[*See main edition for text of* (a) *to* (d)]

(e) Authorization of appropriations

There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for each succeeding fiscal year ending prior to October 1, 1980, for the purposes of this section.

(As amended Pub. L. 96-49, § 13, Aug. 13, 1979, 93 Stat. 354.)

AMENDMENTS

1979—Subsec. (e). Pub. L. 96-49 substituted "October 1, 1980" for "October 1, 1979".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1221e. National Institute of Education

[*See main edition for text of* (a) *to* (i)]

(j) Authorization of appropriations

There are hereby authorized to be appropriated, without fiscal year limitations, $550,000,000, in the aggregate, for the period beginning July 1, 1972, and ending June 30, 1975, to carry out the functions of the Institute. Sums so appropriated shall, not withstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection until expended. There are also authorized to be appropriated for such purpose $100,000,000 for fiscal year 1977, $200,000,000 for each of fiscal years 1978 and 1979, and $125,000,000 for fiscal year 1980.

(k) National assessment of educational progress

(1) In addition to other responsibilities of the Institute under this section, the Institute shall carry out, by grant to or cooperative agreement (subject to the provisions of the Federal Grant and Cooperative Agreement Act of 1977 [41 U.S.C. 501 et seq.]) with a nonprofit education organization, a National Assessment of Educational Progress which shall have as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, and communication. Such a National Assessment shall—

(A) collect and report at least once every five years data assessing the performance of students at various age or grade levels in each of the areas of reading, writing, and mathematics;

(B) report periodically data on changes in knowledge and skills of such students over a period of time;

(C) conduct special assessments of other educational areas, as the need for additional national information arises; and

(D) provide technical assistance to State educational agencies and to local educational agencies on the use of National Assessment objectives, primarily pertaining to the basic skills of reading, mathematics, and communication, and on making comparisons of such assessments with the national profile and change data developed by the National Assessment.

(2)(A) The education organization through which the Institute carries out the National Assessment shall be responsible for overall management of the National Assessment. Such organization shall delegate authority to design and supervise the conduct of the National Assessment to an Assessment Policy Committee established by such organization. The Assessment Policy Committee shall be composed of—

(i) five members appointed by the education organization of whom two members shall be representatives of business and industry and three members shall be representatives of the general public, and

(ii) twelve members appointed by the education organization from the categories of membership specified in subparagraph (B).

(B) Members of the Assessment Policy Committee appointed in accordance with division (ii) of subparagraph (A) shall be—

(i) one chief State school officer;

(ii) two State legislators;

(iii) two school district superintendents;

(iv) one chairman of a State board of education;

(v) one chairman of a local school board;

(vi) one Governor of a State; and

(vii) four classroom teachers.

(C) The Director of the Institute shall serve as an ex officio member of the Assessment Policy Committee. The Director shall also appoint a member of the National Council on Education Research to serve as a nonvoting member of the Assessment Policy Committee.

(D) Members appointed in accordance with divisions (i) and (ii) of subparagraph (A) shall be appointed for terms of three years, except that (i) in the case of members appointed for fiscal year 1979, one third of the membership shall be appointed for terms of one year each and one third shall be appointed for terms of two years each, and (ii) appointments to fill vacancies shall be for such terms as remain unexpired. No member shall be appointed to serve more than two consecutive terms.

(3) The Assessment Policy Committee established by paragraph (2) shall be responsible for the design of the National Assessment, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of assessment results, and studies to evaluate and improve the form and utilization of the National Assessment.

(4) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, subject matter specialists, local school administrators, parents, and concerned members of the general public. All items selected for use in the assessment shall be reviewed to exclude items which might reflect racial, sex, cultural, or regional bias.

(5) Participation in the National Assessment by State and local educational agencies selected as part of a sample of such agencies shall be voluntary.

(6) The Director of the Institute shall provide for a review of the National Assessment at least once every three years. This review shall provide an opportunity for public comment on the conduct and usefulness of National Assessment and shall result in a report to the Congress and to the Nation on the findings and recommendations, if any, stemming from the review.

(7) There are authorized to be appropriated $10,500,000 for each fiscal year ending prior to October 1, 1983, to carry out the provisions of this subsection.

(As amended Pub. L. 95-561, title XII, § 1242, Nov. 1, 1978, 92 Stat. 2352; Pub. L. 96-49, § 14, Aug. 13, 1979, 93 Stat. 354.)

REFERENCES IN TEXT

The Federal Grant and Cooperative Agreement Act of 1977, referred to in subsec. (k)(1), is Pub. L. 95-224, Feb. 3, 1978, 92 Stat. 3, which is classified principally to chapter 8 (§ 501 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 501 of Title 41 and Tables.

AMENDMENTS

1979—Subsec. (j). Pub. L. 96-49 authorized appropriation of $125,000,000 for fiscal year 1980.

1978—Subsec. (k). Pub. L. 95-561 added subsec. (k).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CONTINUATION OF EXPERIMENTAL PROJECT WAIVER AUTHORITY

Pub. L. 95-561, title I, § 103, as added Pub. L. 96-46, § 2(a)(11)(A), Aug. 6, 1979, 93 Stat. 340, provided that: "Notwithstanding any other provision of title I of the Elementary and Secondary Education Act of 1965 [section 2701 et seq. of this title], the Commissioner shall approve for fiscal year 1979 the use of funds provided under that title under the same terms and conditions as such uses were permitted during the preceding fiscal year in local educational agencies which participated in the study conducted under section 821(a)(5) of the Education Amendments of 1974 [section 821(a)(5) of Pub. L. 93-380, set out as a note below] when such agency requests such approval."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1207a, 1232, 2563, 3251, 3315 of this title.

§ 1221e-1. National Center for Education Statistics

[*See main edition for text of* (*a*)]

(b) Purpose and functions

The purpose of the Center shall be to collect and disseminate statistics and other data related to education in the United States and in other nations. The Center shall—

[*See main edition for text of* (*1*) *and* (*2*)]

(3) assist State and local educational agencies, including State agencies responsible for postsecondary education, in improving and automating their statistical and data collection activities;

[*See main edition for text of* (*4*) *and* (*5*)*;* (*c*) *to* (*e*)]

(f)(1) Tables and other statistical records respecting education and special statistical compilations and surveys; compilation and surveys for congressional committees; payment of cost; joint statistical projects, equitable sharing of cost; separate account for funds, uses

(A) The Center is authorized to furnish transcripts or copies of tables and other statistical records of the Office of Education, the Assistant Secretary, and the National Institute of Education to, and to make special statistical compilations and surveys, for, State or local officials, public and private organizations, or individuals. The Center shall furnish such special statistical compilations and surveys as the Committees on Labor and Human Resources and on

Appropriations of the Senate and the Committees on Education and Labor and on Appropriations of the House of Representatives may request. Such statistical compilations and surveys, other than those carried out pursuant to the preceding sentence, shall be made subject to the payment of the actual or estimated cost of such work. In the case of nonprofit organizations or agencies, the Assistant Secretary may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the Assistant Secretary: *Provided*, That the purposes of such projects are otherwise authorized by law.

[*See main edition for text of* (*B*)]

(2) Educational data consortium with other Federal agencies; access to data by interested parties

(A) The Center shall participate with other Federal agencies having a need for educational data in forming a consortium for the purpose of providing direct joint access with such agencies to all educational data received by the Center through automated data processing. The Library of Congress, General Accounting Office, and the Committees on Labor and Human Resources and Appropriations of the Senate and the Committees on Education and Labor and Appropriations of the House of Representatives shall, for the purposes of this subparagraph, be considered Federal agencies.

[*See main edition for text of* (*B*); (*3*)]

(g) Limitation of funds for salaries and expenses, and grants and contracts; separate line item appropriations

(1) The amount available for salaries and expenses of the Center shall not exceed $5,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for the fiscal year ending June 30, 1976, and $14,000,000 for each of the fiscal years ending prior to October 1, 1983.

(2) The amount available for grants and contracts by the Assistant Secretary under subsection (e) of this section shall not exceed $20,000,000 for the fiscal year ending June 30, 1975, $25,000,000 for the fiscal year ending June 30, 1976, and $30,000,000 for each of the fiscal years ending prior to October 1, 1983.

(3) Sums appropriated for activities and expenses of the Center which are not limited by paragraph (2) of this subsection shall be appropriated apart from appropriations which are so limited, as separate line items.

(h) Equalization of resources; data collection; publication of composite profiles

(1) In addition to its other responsibilities, the National Center for Education Statistics shall, in consultation with the Office of Education, collect uniform data from the States on financing of elementary and secondary education. Each State receiving funds under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2701 et seq.] shall cooperate with the National Center in this effort.

(2)(A) The National Center shall, in consultation with the Office of Education, publish by no later than September 30, 1979, and by no later than September 30 of each second fiscal year thereafter, a composite profile of each State showing the degree to which each has achieved equalization of resources for elementary and secondary education among the school districts within the State. A summary of these profiles shall show this equalization among the States.

(B) In compiling the profiles required by this paragraph, the National Center shall list the degree of equalization both within and among the States according to the following standards:

(i) the disparity in expenditures among school districts;

(ii) the disparity from wealth neutrality; and

(iii) such other measures as the National Center considers appropriate, including a consideration of price differentials and pupil-teacher ratios.

(3) There are authorized to be appropriated such sums as may be necessary for any fiscal year to assist the National Center in carrying out its responsibilities under this subsection.

(As amended Pub. L. 95-561, title XII, §§ 1201, 1212(a), (c), 1243(a), Nov. 1, 1978, 92 Stat. 2333, 2338, 2341, 2353; S. Res. 30, Mar. 7, 1979.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (i), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152, which is classified generally to chapter 47 (§ 2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

CODIFICATION

Subsec. (h) was originally enacted as subsec. (i) by Pub. L. 95-561 § 1201 but has been editorially redesignated as (h) in view of the repeal of former subsec. (g) and the redesignation of former subsec. (h) as (g) by Pub. L. 95-561, § 1212(c).

AMENDMENTS

1978—Subsec. (b)(3). Pub. L. 95-561, § 1212(a), added ", including State agencies responsible for postsecondary education," following "local educational agencies".

Subsec. (g). Pub. L. 95-561, §§ 1212(c), 1243(a), redesignated subsec. (h) as (g) and, in pars. (1) and (2) of subsec. (g) as so redesignated, substituted "October 1, 1983" for "October 1, 1978". Former subsec. (g), which related to the coordination by the Secretary and the Commissioner of the collection of information and data acquisition activities of the Education Division and the Office for Civil Rights, was stricken out. See section 1221-3 of this title.

Subsec. (h). Pub. L. 95-561, § 1201, added subsec. (h). See Codification note above. Former subsec. (h) redesignated (g).

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1119a-1, 1221-3, 1232 of this title.

§ 1221e-1a. State responsibility to furnish information

(a) Report to Commissioner; contents

The Commissioner shall require that each State submit to him, within ninety days after the end of any fiscal year, a report on the uses of Federal funds in that State under any applicable program for which the State is responsible for administration. Such report shall—

(1) list all grants and contracts made under such program to the local educational agencies and other public and private agencies and institutions within such State during such year;

(2) include the total amount of funds available to the State under each such program for such fiscal year and specify from which appropriation Act or Acts these funds were available;

(3) with respect to the second preceding fiscal year, include a compilation of reports from local educational agencies and other public and private agencies and institutions within such State which sets forth the amount of such Federal funds received by each such agency and the purposes for which such funds were expended;

(4) with respect to such second preceding fiscal year, include a statistical report on the individuals served or affected by programs, projects, or activities assisted with such Federal funds; and

(5) be made readily available by the State to local educational agencies and other public and private agencies and institutions within the State, and to the public.

(b) Report analysis and statistical data; submittal to congressional committees

On or before March 31 of each year, the Commissioner shall submit to the Committee on Labor and Human Resources of the Senate and to the Committee on Education and Labor of the House of Representatives an analysis of these reports and a compilation of statistical data derived therefrom.

(Pub. L. 90-247, title IV, § 406A, formerly § 437, as added Pub. L. 93-380, title V, § 512(a), Aug. 21, 1974, 88 Stat. 571, amended Pub. L. 94-273, § 17, Apr. 21, 1976, 90 Stat. 379; Pub. L. 94-482, title V, § 501(f)(2), (3), Oct. 12, 1976, 90 Stat. 2237; S. Res. 4, Feb. 4, 1977, and renumbered Pub. L. 95-561, title XII, § 1231(a)(2), Nov. 1, 1978, 92 Stat. 2342; S. Res. 30, Mar. 7, 1979.)

CODIFICATION

Section was formerly classified to section 1232f of this title prior to its renumbering by Pub. L. 95-561.

Amendment by section 501(f)(3) of Pub. L. 94-482, which provided for the substitution of "March 31" for "October 15", was enacted without reference to amendment by section 17 of Pub. L. 94-273, which provided for the substitution of "January 15" for "October 15". In order to carry out probable intent of Congress, "March 31" has been substituted for "January 15" in the text.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-482, § 501(f)(2), substituted "ninety" for "sixty".

Subsec. (b). Pub. L. 94-482, § 501(f)(3), substituted "March 31" for "January 15". See Codification note set out above.

Pub. L. 94-273 substituted "January" for "October".

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

The Committee on Labor and Public Welfare of the Senate, was abolished and replaced by the Committee on Human Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1001 of this title.

EFFECTIVE DATE

Pub. L. 93-380, § 512(b), provided that: "The amendments made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974]."

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning July 1, 1975, for purposes of subsec. (a) of this section, see Pub. L. 94-274, title II, § 204(5), Apr. 21, 1976, 90 Stat. 393, set out as a note under section 390e of Title 7, Agriculture.

§ 1221e-2. Education officers of United States

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1221e-3. General authority of administrative heads of education agencies

(a) Rules and regulations for agency operation; personnel; gifts; transactions; construction of facilities; acquisition and disposal of property; reimbursement of Federal agencies for use of services

Each administrative head of an education agency, in order to carry out functions otherwise vested in him by law or by delegation of authority pursuant to law, is, subject to limitations as may be otherwise imposed by law, authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by the agency of which he is head;

[*See main edition for text of* (*2*) *to* (*6*)]

(b) Qualifications of persons engaged in competitive review of grant applications

The administrative head of an education agency shall ensure that, in contracting under the authority of this section for the services of independent persons in the competitive review of grant applications, all such persons are qualified, by education and experience, to perform such services. The qualifications of such persons and the terms of such contracts, other than information which identify such person, shall be readily made available to the public.

(c) Delegation of functions

Any administrative head of an education agency is, subject to any other limitations or delegations of authority provided by law, authorized to delegate any of his functions under this section to an officer or employee of that agency.

(d) "Administrative head of an education agency" defined

For the purposes of this chapter, the term "administrative head of an education agency" means the Commissioner and the Director of the National Institute of Education. To the extent that the Assistant Secretary is directly responsible for the administration of a program and to the extent that the Assistant Secretary is responsible for the supervision of the National Center for Education Statistics, the Assistant Secretary shall, for such purposes, be considered within the meaning of such term.

(As amended Pub. L. 95-561, title XII, §§ 1243(b), 1244, Nov. 1, 1978, 92 Stat. 2353.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561, § 1243(b), added "or by delegation of authority pursuant to law" following "vested in him by law" in the provisions preceding par. (1) and, in par. (1), added ", and governing the applicable programs administered by" following "the manner of operation of".

Subsec. (b). Pub. L. 95-561, § 1244, added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 95-561, § 1244, redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d) and amended.

Subsec. (d). Pub. L. 95-561, § 1244, redesignated subsec. (c) as (d) and in subsec. (d) as so redesignated substituted "For the purposes of this chapter" for "For the purposes of this section".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1232g, 2883 of this title.

§ 1221f. Office of Indian Education

(a) Establishment; functions of bureau; Deputy Commissioner of Indian Education, appointment for bureau

There is hereby established, in the Office of Education, a bureau to be known as the "Office of Indian Education" which, under the direction of the Commissioner, shall have the responsibility for administering the provisions of subchapter III of chapter 13, and sections 3385 and 1211a of this title. The Office shall be headed by a Deputy Commissioner of Indian Education, who shall be appointed by the Commissioner of Education from a list of nominees submitted to him by the National Advisory Council on Indian Education.

[*See main edition for text of* (*b*); *credits*]

CODIFICATION

In subsec. (a), "section 3385 of this title" was in the original "section 810 of title VIII of the Elementary and Secondary Education Act of 1965", which was formerly classified to section 887c of this title. Section 810 of that Act was renumbered section 1005 of title X by Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and was transferred to section 3385 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1221g. National Advisory Council on Indian Education

(a) Establishment; membership; appointment; geographic representation; termination of Council

There is hereby established the National Advisory Council on Indian Education (referred to in the Indian Education Act as the "National Council"), which shall consist of fifteen members who are Indians and Alaska Natives appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country. Subject to section 1233g(b) of this title, the National Council shall continue to exist until October 1, 1983.

(b) Functions of National Council

The National Council shall—

(1) advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including subchapter III of chapter 13, and section 3385 of this title and with respect to adequate funding thereof;

(2) review applications for assistance under subchapter III of chapter 13, and sections 3385 and 1211a of this title, and make recommendations to the Commissioner with respect to their approval;

[*See main edition for text of* (*3*) *to* (*6*); (*c*) *and* (*d*)]

(As amended Pub. L. 95-561, title XI, § 1141(c)(3), Nov. 1, 1978, 92 Stat. 2329.)

CODIFICATION

In subsec. (b)(1), (2), "section 3385 of this title" was in the original a reference to section 810 of title VIII of the Elementary and Secondary Education Act of 1965, which was formerly classified to section 887c of this title. Section 810 of that Act was renumbered section 1005 of title X by Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and was transferred to section 3385 of this title.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561 substituted "October 1, 1983" for "October 1, 1978".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1221h. Definition of Indian

(a) Categories of individuals included under term "Indian"

For the purposes of the Indian Education Act, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian".

(b) Definition study and analysis

The Assistant Secretary of Health, Education, and Welfare for Education, in consultation with Indian tribes, national Indian organizations, and the Secretary of the Interior, shall supervise a thorough study and analysis of the definition of Indian contained in subsection (a) of this section and submit a report on the results of such study and analysis to the Congress not later than January 1, 1980. Such study and analysis shall include but not be limited to—

(1) an identification of the total number of Indian children being served under the Indian Education Act;

(2) an identification of the number of Indian children eligible and served under each of the four clauses of such definition in such subsection;

(3) an evaluation of the consequences of eliminating descendants in the second degree from the terms of such definition, or of specifying a final date by which tribes, bands, and groups must be recognized, or of both;

(4) other options for changes in the terms of such definition and an evaluation of the consequences of such changes, together with supporting data;

(5) recommendations with respect to criteria for use by the Commissioner under the rulemaking authority contained in clause (4) of such subsection.

(c) Data collection

On the form establishing a child's eligibility for entitlement under part A of this Act [20 U.S.C. 241aa et seq.], the Commissioner shall request at least the following information on the student eligibility form:

(1) the name of the tribe, band, or other organized group of Indians with which the applicant claims membership, along with the enrollment number establishing membership (where applicable), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians; or, if the child is not a member of a tribe, band, or other organized group of Indians, the student eligibility form shall bear the name, the enrollment number (where applicable) and the organization (and address thereof) responsible for maintaining updated and accurate membership roles of any of the applicant's parents or grandparents, from whom the applicant claims eligibility;

(2) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership are federally recognized;

(3) the name and address of the parent or legal guardian;

(4) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

(5) any other information which the Secretary deems necessary to provide an accurate program profile.

Nothing in the requirements of paragraphs (1) through (5) of this subsection shall be construed as changing or restricting the applicable eligibility definition set forth in subsection (a) of this section.

(As amended Pub. L. 95-561, title XI, §§ 1147, 1148, 1151, Nov. 1, 1978, 92 Stat. 2330, 2331, 2333; Pub. L. 96-46, § 7, Aug. 6, 1979, 93 Stat. 343.)

REFERENCES IN TEXT

The Indian Education Act, referred to in subsecs. (a) and (b), in the original read "this title", meaning title IV of Pub. L. 92-318, June 23, 1972, 86 Stat. 334, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 241aa of this title and Tables.

Part A of this Act, referred to in subsec. (c), probably means part A (§ 411) of title IV of Pub. L. 92-318, June 23, 1972, 86 Stat. 334, as amended, which is classified principally to subchapter III (§ 241aa et seq.) of chapter 13 of this title. For complete classification of § 411 of Pub. L. 92-318 to the Code, see Tables.

AMENDMENTS

1979—Subsec. (c). Pub. L. 96-46 substituted "On the form establishing" for "In establishing" and inserted provision that nothing in the requirements of pars. (1) to (5) of this subsection be construed as changing or restricting the application eligibility definition set forth in subsec. (a) of this section.

1978—Subsec. (a). Pub. L. 95-561, §§ 1147, 1151, designated existing provisions as subsec. (a), and in cl. (1) of subsec. (a) as so designated struck out "now or in the future" following "and those recognized".

Subsec. (b). Pub. L. 95-561, § 1147, added subsec. (b).

Subsec. (c). Pub. L. 95-561, § 1148, added subsec. (c).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1221i. Office of Libraries and Learning Resources

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1221j. Television program assistance; granting and contracting authority; administration, etc.

(a) The Secretary is authorized to make grants to and contracts with public and private agencies for the production, development, or distribution (or any combination thereof) of programs designed for television systems, whether broadcast or nonbroadcast.

(b) The Assistant Secretary for Education shall be responsible for the administration of this section and shall also conduct surveys, research, and evaluation studies which may assist in decisions to support pilot programs for full scale production.

(Pub. L. 95-561, title XV, § 1527, Nov. 1, 1978, 92 Stat. 2379.)

CODIFICATION

Section was enacted as part of Education Amendments of 1978, and not as part of General Education Provisions Act which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER II—APPROPRIATIONS AND EVALUATIONS

PART 1—APPROPRIATIONS

§ 1225. Availability of appropriations

[*See main edition for text of* (*a*)]

(b) Succeeding fiscal year

(1) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this chapter is applicable during any fiscal year, which are not obligated and expended by educational agencies or institutions prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure by such agencies and institutions during such succeeding fiscal year.

(2) Any funds under any applicable program which, pursuant to paragraph (1), are available for obligation and expenditure in the year succeeding the fiscal year for which they were appropriated shall be obligated and expended in accordance with—

(A) the Federal statutory and regulatory provisions relating to such program which are in effect for such succeeding fiscal year, and

(B) any program plan or application submitted by such educational agencies or institutions for such program for such succeeding fiscal year.

[*See main edition for text of* (*c*)]

(As amended Pub. L. 95-112, § 5, Sept. 24, 1977, 91 Stat. 912; Pub. L. 95-561, title XII, § 1245, Nov. 1, 1978, 92 Stat. 2354.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-561 struck out "ending prior to October 1, 1979," following "applicable during any fiscal year," in existing provisions, designated existing provisions as thus amended as par. (1), and added par. (2).

1977—Subsec. (b). Pub. L. 95-112 substituted "October 1, 1979" for "October 1, 1978".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, but the provisions of subsec. (b)(2) of this section not to take effect with respect to the use of funds under section 3101 of this title until Oct. 1, 1980, except at the option of local educational agencies, see section

1530 of Pub. L. 95-561, as amended, set out as an Effective Date note under section 2701 of this title.

§ 1226a. Contingent extension of programs

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1226a-1. Payments; installments, advances or reimbursement, and adjustments

Payments pursuant to grants or contracts under any applicable program may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

(Pub. L. 90-247, title IV, § 415, formerly § 425, as added Pub. L. 91-230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 170, renumbered § 435, Pub. L. 92-318, title III, § 301(a)(1) June 23, 1972, 86 Stat. 326, and renumbered § 415, Pub. L. 95-561, title XII, § 1231(a)(1), Nov. 1, 1978, 92 Stat. 2342.)

CODIFICATION

Section was formerly classified to section 1232d of this title prior to its renumbering by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART 2—PLANNING AND EVALUATION OF FEDERAL EDUCATION ACTIVITIES

§ 1226c. Annual evaluation reports to congressional committees

(a) Time of submission; purpose; contents

Not later than November 1 of each year, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate an annual evaluation report which evaluates the effectiveness of applicable programs (including compliance with provisions of law requiring the maintenance of non-Federal expenditures for the purposes of such applicable programs) in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes. In the case of any evaluation report evaluating specific programs and projects, such report shall—

[*See main edition for text of* (*A*) *to* (*F*); (*b*)]

(As amended Pub. L. 95-561, title XII, § 1246(a), (b), Nov. 1, 1978, 92 Stat. 2354; S. Res. 30, Mar. 7, 1979; Pub. L. 96-46, § 4(b), Aug. 6, 1979, 93 Stat. 342.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-46 substituted "(a) Not later than" for "(a)(1) Not later than" and struck out par. (2), which provided that in the case of programs and projects assisted under title I of the Elementary and Secondary Education Act of 1965, the report include a survey of how many children counted under section 103(c) of such Act do or do not participate in such programs and projects and how many disadvantaged children do or do not participate in such programs and projects.

1978—Subsec. (a)(1). Pub. L. 95-561 added "(including compliance with provisions of law requiring the maintenance of non-Federal expenditures for the purposes of such applicable programs)" following "effectiveness of applicable programs" and substituted "Committee on Human Resources" for "Committee on Labor and Public Welfare" in the provisions preceding subpar. (A).

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§ 1226c-1. Availability of education reports, etc., to Congressional committees

Any evaluation report or data or information collected in preparation of such report, which is paid for with appropriated funds, shall be made available, upon request, within 4 days to the chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives and of the Committee on Labor and Human Resources of the Senate.

(Pub. L. 95-561, title XV, § 1523, Nov. 1, 1978, 92 Stat. 2378; S. Res. 30, Mar. 7, 1979.)

CODIFICATION

Section was enacted as part of Education Amendments of 1978, and not as part of General Education Provisions Act which comprises this chapter.

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§ 1226d. Renewal evaluation reports to congressional committees

(a) Time of submission

In the case of any applicable program for which—

(1) the authorization of appropriations expires; or

(2) the time during which payments or grants are to be made expires;

not later than one year prior to the date of such expiration, the Assistant Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a comprehensive evaluation report on such program.

(b) Contents

Any comprehensive evaluation report submitted pursuant to subsection (a) of this section shall contain—

(1) a history of the program concerned, including—

(A) a history of authorizations of appropriations, budget requests, appropriations, and expenditures (including, where applicable, State and local expenditures) for such programs;

[*See main edition for text of (B) and (C); (2) to (4)*]

(As amended Pub. L. 95-561, title XII, § 1246(c), Nov. 1, 1978, 92 Stat. 2354; S. Res. 30, Mar. 7, 1979.)

AMENDMENTS

1978—Subsec. (b)(1)(A). Pub. L. 95-561 added "(including, where applicable, State and local expenditures)" following "and expenditures".

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1228. Prohibition against use of appropriated funds for busing

No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to subchapter I of chapter 13 of this title, but not including any portion of such funds as are attributable to children counted under subparagraph (C) of section 238(d)(2) of this title or section 244(1)(C) of this title.

(Pub. L. 90-247, title IV, § 420, as added Pub. L. 93-380, title II, § 252, Aug. 21, 1974, 88 Stat. 519.)

REFERENCES IN TEXT

Subchapter I of chapter 13 of this title, referred to in text, was in the original "title I of the Act of September 30, 1950 (P.L. 874, 81st Congress)", meaning act Sept. 30, 1950, ch. 1124, title I, 64 Stat. 1100, as amended, which is classified generally to subchapter I (§ 236 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is set out in this supplement to correct a typographical error in the main edition.

SUBCHAPTER III—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL AUTHORITY OF COMMISSIONER OF EDUCATION

§ 1230. Programs subject to provisions of this subchapter

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART I—GENERAL AUTHORITY

§ 1231. Administration of education programs

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1231a. Collection and dissemination of information

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

EVALUATION PRACTICES AND PROCEDURES AT NATIONAL, STATE, AND LOCAL LEVELS FOR FEDERALLY FUNDED ELEMENTARY AND SECONDARY EDUCATIONAL PROGRAMS; REPORT TO CONGRESS

Pub. L. 95-561, title XV, § 1526, Nov. 1, 1978, 92 Stat. 2379, as amended by Pub. L. 96-46, § 2(a)(9), Aug. 6, 1979, 93 Stat. 340, provided that:

"The Commissioner of Education shall conduct a study of evaluation practices and procedures at the national, State, and local levels with respect to federally funded elementary and secondary educational programs and shall include in the first annual report to Congress submitted more than eighteen months after the date of enactment of this Act [Nov. 1, 1978] proposals and recommendations for the revision or modification of any part or all of such practices and procedures. Such proposals and recommendations shall include provisions—

"(1) to ensure that evaluations are based on uniform methods and measurements;

"(2) to ensure the integrity and independence of the evaluation process; and

"(3) to ensure appropriate follow-up on the evaluations that are conducted."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3196 of this title.

§ 1231b. Catalog of Federal education assistance programs; transmittal to Congress

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1231b-1. Compilation of assisted innovative projects

The Assistant Secretary shall publish annually a compilation of all innovative projects assisted under programs administered in the Education Division, including title III [20 U.S.C. 2941 et seq.] and part C of title IV [20 U.S.C. 3111 et seq.] of the Elementary and Secondary Education Act of 1965, in any year funds are used to carry out such programs. Such compilation shall be indexed according to subject, descriptive terms, and locations.

(Pub. L. 90-247, title IV, § 424, as added Pub. L. 93-380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152. Title III of the 1965 Act, which was formerly classified to subchapter II (§ 841 et seq.) of chapter 24 of this title, is now classified generally to subchapter III (§ 2941 et seq.) of chapter 47 of this title. Part C of title IV of that Act, which was formerly classified to part C (§ 1831 et seq.) of subchapter I of chapter 40 of this title, is now classified generally to part C (§ 3111) of subchapter IV of chapter 47 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1231b-2. Review of applications

(a) Persons aggrieved; final State educational agency actions; hearing; ruling and reasons for ruling; rescission of final actions

In the case of any applicable program under which financial assistance is provided to (or through) a State educational agency to be expended in accordance with a State plan approved by the Commissioner, and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2701 et seq.], any applicant or recipient aggrieved by the final action of the State educational agency, and alleging a violation of State or Federal law, rules, regulations, or guidelines governing the applicable program, in (1) disapproving or failing to approve its application or program in whole or part, (2) failing to provide funds in amounts in accord with the requirements of laws and regulations, (3) ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, or (4) terminating further assistance for an approved program, may within thirty days request a hearing. Within thirty days after it receives such a request, the State educational agency shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing the State educational agency shall issue its written ruling, including reasons therefor. If it determines such final action was contrary to Federal or State law, or the rules, regulations, and guidelines, governing such applicable program it shall rescind such final action.

[*See main edition for text of* (*b*) *to* (*d*)]

(As amended Pub. L. 95-561, title XII, § 1247, Nov. 1, 1978, 92 Stat. 2354.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152. Title I of the 1965 Act, which was formerly classified to subchapter II (§ 241a et seq.) of chapter 13 of this title, is now classified generally to subchapter I (§ 2701 et seq.) of chapter 47 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561 added cl. (3) relating to the ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, and redesignated existing cl. (3) as (4).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2816, 2817, 3148, 3149 of this title.

§ 1231c. Advice, counsel and technical assistance

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Dissemination

In awarding contracts and grants for the development of curricula or instructional materials, the Commissioner and the Director of the National Institute of Education shall—

(1) encourage applicants to assure that such curricula or instructional materials will be developed in a manner conducive to dissemination through continuing consultations with publishers, personnel of State and local educational agencies, teachers, administrators, community representatives, and other individuals experienced in such dissemination;

(2) permit applicants to include provision for reasonable consultation fees or planning costs; and

(3) insure that grants to public agencies and nonprofit private organizations and contracts with public agencies and private organizations for publication and dissemination of curricula or instructional materials, or both, are awarded competitively to such agencies and organizations which provide assurances that the curricula and instructional materials will reach the target populations for which they were developed.

(d) Annual report by Commissioner

The Commissioner's annual report shall contain a statement of the Commissioner's activities under this section.

(As amended Pub. L. 95-561, title XII, § 1248, Nov. 1, 1978, 92 Stat. 2354.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-561 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 95-561 redesignated subsec. (c) as (d).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1231c-1. Equalization assistance

(a) Grants for development and implementation of plans to achieve resource equalization

The Commissioner is authorized from the sums appropriated pursuant to subsection (d) of this section to make grants to States to assist in developing and implementing plans to revise their systems of financing elementary and secondary education in order to achieve a greater equalization of resources among school districts. Any State desiring to receive such a grant shall (1) submit an application approved by the State legislature for such funds, (2) provide that State funds will match the Federal funds on a dollar for dollar basis, and (3) show how these efforts build upon the knowledge gained through the plans developed pursuant to section 246 of this title.

(b) Models and materials; training centers

The Commissioner is authorized, from sums appropriated pursuant to subsection (d) of this section, (1) to develop and disseminate models and materials useful to the States in planning and implementing revisions of their school financing systems, and (2) to establish temporary national and regional training centers to assist those involved in school finance in providing the level of expertise needed by the States in revising their financing systems.

(c) Dissemination of information

The Commissioner shall (1) designate a unit within the Office of Education to serve as a national dissemination center for information on the States' efforts to achieve a greater equalization of resources for elementary and secondary education, and (2) develop an analysis of what has been learned through the use of funds available under section 246 of this title and disseminate the results of this analysis.

(d) Authorization of appropriations

There are hereby authorized to be appropriated $4,000,000 for each of the fiscal years ending prior to September 30, 1983, for the purposes of this section.

(Pub. L. 90-247, title IV, § 426A, as added Pub. L. 95-561, title XII, § 1202, Nov. 1, 1978, 92 Stat. 2334.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1231d to 1231f

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART II—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

§ 1231g. Applications

(a) Submission and amendments of applications

Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, the Commissioner is authorized to provide for the submission of applications for assistance effective for three fiscal years under any applicable program with whatever amendments to such applications being required as the Commissioner determines essential.

(b) Uniform dates

The Commissioner shall, insofar as is practicable, establish uniform dates during the year for the submission of applications under all applicable programs and for the approval of such applications.

(c) Development of common applications

The Commissioner shall, insofar as is practicable, develop and require the use of—

(1) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies pursuant to some objective formula, and such application shall be used as the single application for as many of these programs as is practicable;

(2) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies on a competitive or discretionary basis, and such application shall be used as the single application for as many of such programs as is practicable; and

(3) a common application for grants to local educational agencies in applicable programs which are directly administered by the Commissioner, and such application shall be used as the single application for as many of these programs as is practicable.

(Pub. L. 90-247, title IV, § 430, as added Pub. L. 95-561, title XII, § 1213, Nov. 1, 1978, 92 Stat. 2342.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1232. Regulations

[*See main edition for text of* (*a*)]

(b) Publication in Federal Register; opportunity for comment; exceptions; reconsideration; waiver of thirty day period

[*See main edition for text of* (*1*)]

(2) [*See main edition for text of* (*A*)]

(B) If the Commissioner determines that the thirty-day requirement in paragraph (1) will cause undue delay in the implementation of a regulation, thereby causing extreme hardship for the intended beneficiaries of an applicable program, he shall notify the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. If neither committee disagrees with the determination of the Commissioner within 10 days after such notice, the Commissioner may waive such requirement with respect to such regulation.

[*See main edition for text of* (*c*)]

(d) Transmittal to Speaker of House and President of Senate; effective date; concurrent resolution of disapproval; failure to adopt; waiting period affected by adjournments; formal statement of objection; effective date of suspension letter; prescribed waiting period

[*See main edition for text of* (*1*)]

(2) The forty-five-day period specified in paragraph (1) shall be deemed to run without interruption except during periods when either House is in adjournment sine die, in adjournment subject to the call of the Chair, or in adjournment to a day certain for a period of more than four consecutive days. In any such period of adjournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calendar days, or less, the forty-five-day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournment which lasts more than thirty days, the forty-five-day period shall be deemed to have elapsed after thirty calendar days has elapsed, unless, during those thirty calendar days, either the Committee on Education and Labor of the House of Representatives, or the Committee on Labor and Human Resources of the Senate, or both, shall have directed its chairman, in accordance with said committee's rules, and the rules of that House, to transmit to the appropriate department or agency head a formal statement of objection to the final regulation. Such letter shall suspend the effective date of the final regulation until not less than twenty days after the end of such adjournment, during which the Congress may enact the concurrent resolution provided for in this subsection. In no event shall the final regulation go into effect until the forty-five-day period shall have elapsed, as provided for in this subsection, for both Houses of the Congress.

[*See main edition for text of* (*e*) *and* (*f*)]

(g) Final regulations; requirements and enforcement

Not later than sixty days after the enactment of any part of any Act affecting the administration of any applicable program, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Commissioner has planned to promulgate final regulations implementing such Act or part of such Act. Such schedule shall provide that all such final regulations shall be promulgated within one hundred and eighty days after the submission of such schedule. Except as is provided in the following sentence, all such final regulations shall be promulgated in accordance with such schedule. If the Commissioner finds that, due to circumstances unforseen[1] at the time of the submission of any such schedule, he cannot comply with a schedule submitted pursuant to this subsection, he shall notify such committees of such finding and submit a new schedule. If both such committees notify the Commissioner of their approval of such new schedule, such final regulations shall be promulgated in accordance with such new schedule.

---

[1] So in original.

(As amended S. Res. 30, Mar. 7, 1979.)

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 927, 1221-3, 3345, 3474 of this title; title 25 section 2018.

§ 1232-1. Maintenance of effort determination by Commissioner

(a) Promulgation of regulations; determination of amount expended

In prescribing regulations for carrying out the requirements of section 1803(a)(10) of this title for fiscal year 1979 and section 3084(a)(7) of this title for subsequent fiscal years and section 1206(b) of this title, the Commissioner shall determine the amount so expended on the basis of per pupil or aggregate expenditures.

(b) Waiver of requirements

The Commissioner may waive, for one fiscal year only, the requirements of this section if he determines that such a waiver would be equitable due to exceptional and unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. In any case in which a waiver under this subsection is granted, the Commissioner shall reduce the amount of the Federal payment for the program affected for the current fiscal year in the exact proportion to which the amount expended (either on an average per pupil or aggregate basis) was less than the amount required by section 1803(a)(10) of this title for fiscal year 1979, and section 3084(a)(7) of this title for subsequent fiscal years or section 1206(b) of this title. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort required, under such sections, for years subsequent to the year covered by such waiver; such fiscal effort shall be computed on the basis of the level of funding which would, but for such waiver, have been required.

(c) Objective criteria in carrying out waiver authority

The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this section.

(d) Duration of effectiveness of requirements

This section shall be effective with respect to each requirement to which it applies, during the period which begins on November 1, 1978, and ends on the date of termination of the program to which the requirement applies. For purposes of the preceding sentence, a program shall be considered to terminate on September 30 of the fiscal year, if any, during which such program is automatically extended pursuant to section 1226a of this title.

(As amended Pub. L. 95-561, title XII, § 1249, Nov. 1, 1978, 92 Stat. 2355.)

REFERENCES IN TEXT

Section 1803 of this title, referred to in subsecs. (a) and (b), was omitted from the Code.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561 added reference to regulations for carrying out the requirements of section 3084(a)(7) of this title for fiscal years subsequent to fiscal year 1979 and struck out provisions relating to calculations of expenditures by agencies using base year amounts as factors in such calculations.

Subsec. (b). Pub. L. 95-561 substituted a general grant of authority to waive the requirements of this section if the waiver would be equitable due to exceptional and unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of a local educational agency for provisions setting specific and detailed conditions for the waiver of statutory requirements and allowing a waiver to be taken into account when computing fiscal effort in subsequent fiscal years, and redesignated as subsec. (c) provisions directing the Commissioner to establish objective criteria of general applicability to carry out his waiver authority.

Subsec. (c). Pub. L. 95-561 designated as subsec. (c) provisions formerly contained in subsec. (b) directing the Commissioner to establish objective criteria of general applicability to carry out his waiver authority. Former subsec. (c) was redesignated (d) and amended.

Subsec. (d). Pub. L. 95-561 redesignated subsec. (c) as (d) and in subsec. (d) as so redesignated substituted "November 1, 1978" for "October 12, 1976".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1232b. Labor standards

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2734 of this title.

PART III—ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS BY STATES AND LOCAL EDUCATIONAL AGENCIES

§ 1232c. State educational agency monitoring and enforcement

(a) State plan

In the case of any applicable program in which Federal funds are made available to local agencies in a State through or under the supervision of a State board or agency, the Commissioner may require the State to submit a plan for monitoring compliance by local agencies with Federal requirements under such program and for enforcement by the State of such requirements. The Commissioner may require such plan to provide—

(1) for periodic visits by State personnel of programs administered by local agencies to determine whether such programs are being conducted in accordance with such requirements;

(2) for periodic audits of expenditures under such programs by auditors of the State or other auditors not under the control, direction, or supervision of the local educational agency; and

(3) that the State investigate and resolve all complaints received by the State, or referred to the State by the Commissioner, relating to the administration of such programs.

(b) State enforcement of Federal requirements

In order to enforce the Federal requirements under any applicable program the State may—

(1) withhold approval, in whole or in part, of the application of a local agency for funds under the program until the State is satisfied that such requirements will be met; except that the State shall not finally disapprove such an application unless the State provides the local agency an opportunity for a hearing before an impartial hearing officer and such officer determines that there has been a substantial failure by the local agency to comply with any of such requirements;

(2) suspend payments to any local agency, in whole or in part, under the program if the State has reason to believe that the local agency has failed substantially to comply with any of such requirements, except that (A) the State shall not suspend such payments until fifteen days after the State provides the local agency an opportunity to show cause why such action should not be taken and (B) no such suspension shall continue in effect longer than sixty days unless the State within such period provides the notice for a hearing required under paragraph (3) of this subsection;

(3) withhold payments, in whole or in part, under any such program if the State finds, after reasonable notice and opportunity for a hearing before an impartial hearing officer, that the local agency has failed substantially to comply with any of such requirements.

Any withholding of payments under paragraph (3) of this subsection shall continue until the State is satisfied that there is no longer a failure to comply substantially with any of such requirements.

(Pub. L. 90-247, title IV, § 434, as added Pub. L. 95-561, title XII, § 1231(a)(3), Nov. 1, 1978, 92 Stat. 2342.)

CODIFICATION

A prior section 1232c, Pub. L. 90-247, title IV, § 434, formerly § 424, as added Pub. L. 91-230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169, renumbered and amended Pub. L. 92-318, title III, § 301(a)(1), title V, § 501, June 23, 1972, 86 Stat. 326, 345, and amended Pub. L. 93-380, title V, §§ 510, 511(a), Aug. 21, 1974, 88 Stat. 568, 569; Pub. L. 94-482, title V, § 501(f)(1), Oct. 12, 1976, 90 Stat. 2237, relating to the administration of education programs and projects, was repealed by section 1231(a)(3) of Pub. L. 95-561.

EFFECTIVE DATE

Section 1261 of Pub. L. 95-561 provided that: "The amendments made by section 1231 [enacting sections 1232c, 1232d, 1232e, and 1232f of this title and amending section 1088f-1 of this title] shall take effect with respect to appropriations for fiscal year 1980 and subsequent fiscal years. The amendments made by section 1232 [enacting sections 1234, 1234a, 1234b, 1234c, 1234d, and 1234e of this title] shall take effect 120 days after the enactment of this Act [Nov. 1, 1978]."

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1205, 2306, 2307, 2816, 3143 of this title.

§ 1232d. Single State application

(a) Submission of general application; approval by State supervisory authority

In the case of any State which applies, contracts, or submits a plan, for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of, the State educational agency of that State, such State shall submit (subject, in the case of programs under titles I [20 U.S.C. 2701 et seq.] and IV [20 U.S.C. 3081 et seq.] of the Elementary and Secondary Education Act of 1965, to the provisions of title V [20 U.S.C. 3141 et seq.] of such Act) to the Commissioner a general application containing the assurances set forth in subsection (b) of this section. Such application may be submitted jointly for all programs covered by the application, or it may be submitted separately for each such program or for groups of programs. Each application submitted under this section must be approved by each official, agency, board, or other entity within the State which, under State law, is primarily responsible for supervision of the activities conducted under each program covered by the application.

(b) Assurances

An application submitted under subsection (a) of this section shall set forth assurances, satisfactory to the Commissioner—

(1) that each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or organization if the statute authorizing the program provides for grants to such entities, and that the public agency or nonprofit private agency, institution, or organization will administer such funds and property;

(3) that the State will adopt and use proper methods of administering each applicable program, including—

(A) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law,

(B) providing technical assistance, where necessary, to such agencies, institutions, and organizations,

(C) encouraging the adoption of promising or innovative educational techniques by such agencies, institutions, and organizations,

(D) the dissemination throughout the State of information on program requirements and successful practices, and

(E) the correction of deficiencies in program operations that are identified through monitoring or evaluation;

(4) that the State will evaluate the effectiveness of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Commissioner may prescribe by regulation, and that the State will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other Federal official;

(5) that the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each program;

(6) that the State will make reports to the Commissioner (including reports on the results of evaluations required under paragraph (4)) as may reasonably be necessary to enable the Commissioner to perform his duties under each program, and that the State will maintain such records, in accordance with the requirements of section 1232f of this title, and afford access to the records as the Commissioner may find necessary to carry out his duties; and

(7) that the State will provide reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by each program and other interested institutions, organizations, and individuals in the planning for and operation of each program, including the following:

(A) the State will consult with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of program plans required by statute;

(B) the State will publish each proposed plan, in a manner that will ensure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Commissioner or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least thirty days;

(C) the State will hold public hearings on the proposed plans if required by the Commissioner by regulation; and

(D) the State will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations.

(c) Effective term of general application

Each general application submitted under this section shall remain in effect for the duration of any program it covers. The Commissioner shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant changes in the circumstances affecting an assurance in that application.

(Pub. L. 90-247, title IV, § 435, as added Pub. L. 95-561, title XII, § 1231(a)(3), Nov. 1, 1978, 92 Stat. 2343.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152. Title I of the 1965 Act, which was formerly classified to subchapter II (§ 241a et seq.) of chapter 13 of this title, is now classified generally to subchapter I (§ 2701 et seq.) of chapter 47 of this title. Title IV of that Act, which was formerly classified to subchapter I (§ 1801 et seq.) of chapter 40 of this title, is now classified generally to subchapter IV (§ 3081 et seq.) of chapter 47 of this title. Title V of that Act, which was formerly classified to subchapter III (§ 861 et seq.) of chapter 24 of this title, is now classified generally to subchapter V (§ 3141 et seq.) of chapter 47 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

CODIFICATION

A prior section 1232d was renumbered by Pub. L. 95-561, § 1231(a)(1), and was transferred to section 1226a-1 of this title.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95-561, set out as an Effective Date note under section 1232c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234a, 1234d, 2832, 3084, 3150 of this title.

§ 1232e. Single local educational agency application

(a) General application to State agency or board

Each local educational agency which participates in an applicable program under which Federal funds are made available to such agency through a State agency or board shall submit to such agency or board a general application containing the assurances set forth in subsection (b) of this section. That application shall cover the participation by that local education agency in all such programs.

(b) Assurances

The general application submitted by a local educational agency under subsection (a) of this section shall set forth assurances—

(1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided to the local educational agency under each program and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

(3) that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that agency under each program;

(4) that the local educational agency will make reports to the State agency or board and to the Commissioner as may reasonably be necessary to enable the State agency or board and the Commissioner to perform their duties and that the local educational agency will maintain such records, including the records required under section 1232 of this title, and provide access to those records, as the State agency or board or the Commissioner deem necessary to perform their duties;

(5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;

(6) that any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;

(7) that in the case of any project involving construction—

(A) the project is not inconsistent with overall State plans for the construction of school facilities, and

(B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 794 of title 29 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by handicapped individuals; and

(8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

(c) Effective term of general application

A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the submission or amendment of such application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in such application.

(Pub. L. 90-247, title IV, § 436, as added Pub. L. 95-561, title XII, § 1231(a)(3), Nov. 1, 1978, 92 Stat. 2345.)

PRIOR PROVISIONS

A prior section 1232e, Pub. L. 90-247, title IV, § 436, formerly § 426, as added Pub. L. 91-230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 170, and renumbered Pub. L. 92-318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, relating to the authority of the Commissioner to vest title in equipment, was repealed by section 1231(a)(3) of Pub. L. 95-561.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95-561, set out as an Effective Date note under section 1232c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2731, 3150 of this title.

PART IV—RECORDS; PRIVACY; LIMITATION ON WITHHOLDING FEDERAL FUNDS

§ 1232f. Records

(a) Records kept by recipient; full disclosure; five-year maintenance period

Each recipient of Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency) shall keep records which fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and such other records as will facilitate an effective audit. The recipient shall maintain such records for five years after the completion of the activity for which the funds are used.

(b) Audit examination

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit examination, to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements to which reference is made in subsection (a) of this section, or which may relate to the compliance of the recipient with any requirement of an applicable program.

(Pub. L. 90-247, title IV, § 437, as added Pub. L. 95-561, title XII, § 1231(c), Nov. 1, 1978, 92 Stat. 2346.)

CODIFICATION

A prior section 1232f was renumbered by Pub. L. 95-561, § 1231(a)(2), and was transferred to section 1221e-1a of this title.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95-561, set out as an Effective Date note under section 1232c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1232d, 1232e, 2308, 3141, 3142 of this title.

§ 1232g. Family educational and privacy rights

[*See main edition for text of* (*a*)]

(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of Federally-supported education programs; recordkeeping

[*See main edition for text of* (*1*) *to* (*4*)]

(5) Nothing in this section shall be construed to prohibit State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally or State supported education program or in connection with the enforcement of the Federal legal requirements which relate to any such program, subject to the conditions specified in the proviso in paragraph (3).

[*See main edition for text of* (*c*) *to* (*g*)]

(As amended Pub. L. 96-46, § 4(c), Aug. 6, 1979, 93 Stat. 342.)

AMENDMENTS

1979—Subsec. (b)(5). Pub. L. 96-46 added par. (5).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1232h. Protection of pupil rights

(a) Inspection by parents or guardians of instructional material

All instructional material, including teacher's manuals, films, tapes, or other supplementary instructional material which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project. For the purpose of this section "research or experimentation program or project" means any program or project in any applicable program designed to explore or develop new or unproven teaching methods or techniques.

(b) Psychiatric or psychological examinations, testing, or treatment

No student shall be required, as part of any applicable program, to submit to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning:

(1) political affiliations;

(2) mental and psychological problems potentially embarrassing to the student or his family;

(3) sex behavior and attitudes;

(4) illegal, anti-social, self-incriminating and demeaning behavior;

(5) critical appraisals of other individuals with whom respondents have close family relationships;

(6) legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers; or

(7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program), without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of unemancipated minor, without the prior written consent of the parent.

(As amended Pub. L. 95-561, title XII, § 1250, Nov. 1, 1978, 92 Stat. 2355.)

AMENDMENTS

1978—Pub. L. 95-561 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§ 1232i. Limitations on withholding of Federal assistance

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER IV—ADVISORY COUNCILS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1053, 1221d, 1221g, 2612a, 3242, 3294, 3346, 3366 of this title.

§§ 1233 to 1233c

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1233d. Professional, technical and clerical staff

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3242 of this title.

§ 1233e. Meetings of advisory councils; minutes; contents and certification

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3242 of this title.

§ 1233f. Auditing and review of advisory council activities; records

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1233g. Report by Commissioner of Education

(a) Submission to congressional committees; contents

Not later than June 30 of each calendar year after 1970, the Commissioner shall submit, as a part of the Commissioner's annual report, a report on the activities of the advisory councils which are subject to this subchapter to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives. Such report shall contain, at least, a list of all such advisory councils, the names and affiliations of their members, a description of the function of each advisory council, and a statement of the dates of the meetings of each such advisory council.

[*See main edition for text of* (*b*)]

(As amended Pub. L. 95-43, § 1(d), June 15, 1977, 91 Stat. 219; S. Res. 30, Mar. 7, 1979.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-43 substituted "June 30" for "March 31".

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1009, 1209, 1221e-1, 1221g, 1244, 2852, 3242 of this title.

SUBCHAPTER V—ENFORCEMENT [NEW]

§ 1234. Education Appeal Board

(a) Establishment; functions

The Commissioner shall establish in the Office of Education an Education Appeal Board (hereinafter in this part referred to as the "Board") the functions of which shall be to conduct—

(1) audit appeal hearings pursuant to section 1234a of this title,

(2) withholding hearings pursuant to section 1234b of this title,

(3) cease and desist hearings pursuant to section 1234c of this title, and

(4) other proceedings designated by the Commissioner.

(b) Designation of members

The members of the Board shall be designated by the Secretary, in consultation with the Assistant Secretary for Education and the Commissioner, and may include individuals who are officers or employees of the United States, as well as individuals who are not full-time employees of the Federal Government.

(c) Membership; Chairman

The Board shall be composed of not less than fifteen nor more than thirty members, of whom no more than one-third shall be officers or employees of the Department. The Secretary shall designate one of the members of the Board to be the Chairman.

(d) Hearing panels

For the purposes of conducting hearings as provided in subsection (a) of this section the Chairman may appoint hearing panels of not less than three members of the Board, or the Chairman may designate the entire Board to sit as a panel for any case or class of cases. On any such panel—

(1) the majority of members shall not be individuals in the full-time employment of the Federal Government,

(2) the membership shall not include any individual who is a party to, or has any responsibility for, any particular matter assigned to that panel, and

(3) the Chairman of the Board shall designate one member of each such panel to be the presiding officer.

(e) Rules and regulations

The proceedings of the Board shall be conducted according to such rules as the Commissioner shall prescribe by regulation in conformance with the rules relating to hearings in title 5, sections 554, 556, and 557 respecting—

(1) the receipt of oral or written testimony,
(2) notice of the issues to be considered,
(3) the right to counsel,
(4) intervention of third parties,
(5) transcripts of proceedings, and
(6) such other matters as may be necessary to carry out the functions of the Board.

(f) Use of established appeal board authorized

If there has been established within the Department of Health, Education, and Welfare an appeal board which the Commissioner determines is capable of carrying out the functions of the Board established under this section, he may, with the approval of the Secretary, designate such Department appeal board to carry out the functions of this section.

(Pub. L. 90-247, title IV, § 451, as added Pub. L. 95-561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2346.)

EFFECTIVE DATE

Subchapter effective 120 days after Nov. 1, 1978, see section 1261 of Pub. L. 95-561, set out as an Effective Date note under section 1232c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1234b of this title.

§ 1234a. Audit determinations

(a) Final audit determination; written notice to State or local educational agency

Whenever the Commissioner determines that an expenditure not allowable under a program listed in section 1232d(a) of this title, or conducted under title VI [20 U.S.C. 3191 et seq.] and title VII [20 U.S.C. 3221 et seq.] of the Elementary and Secondary Education Act of 1965 or under the Emergency School Aid Act [20 U.S.C. 3191 et seq.] has been made by a State or by a local educational agency, or that a State or local educational agency has otherwise failed to discharge its obligation to account for funds under any such program, the Commissioner shall give such State or local educational agency written notice of a final audit determination, and he shall at the same time notify such State or agency of its right to have such determination reviewed by the Board.

(b) Application for review; procedure in case of insufficient detail

A State or a local educational agency that has received written notice of a final audit determination and that desires to have such determination reviewed by the Board shall submit to the Board an application for review not later than thirty days after receipt of notification of the final audit determination. The application for review shall be in the form and contain the information specified by the Board. The Board shall return to the Commissioner for such action as he deems appropriate any final audit determination which, in the judgment of the Board, contains insufficient detail to identify with particularity those expenditures which are not allowable. Unless the Board determines that a final audit determination lacks sufficient detail, the burden shall be upon the State or local educational agency to demonstrate the allowability of expenditures disallowed in the final audit determination.

(c) Collection of amount owing to await final decision

When a State or a local educational agency has submitted an application for review with respect to a final audit determination, no action shall be taken by the Commissioner to collect the amount determined to be owing until the Board has issued a final decision upholding the audit determination as to all or any part of such amount. The filing of such an application shall not affect the authority of the Commissioner to take any other adverse action against such State or agency under this subchapter.

(d) Finality

A decision of the Board with respect to an application for review under this section shall become final unless within sixty days following receipt by the State or by the local educational agency of written notice of the decision—

(1) the Commissioner for good cause shown, modifies or sets aside the decision, in whole or in part, in which case the decision shall become final sixty days after such action by the Commissioner, or

(2) the State or the local educational agency files a petition for judicial review as provided in section 1234d of this title.

(e) Establishment of amount owing

A final audit determination by the Commissioner under subsection (a) of this section with respect to which review has not been requested pursuant to subsection (b) of this section, or a final decision of the Board under this section upholding a final audit determination against a State or a local educational agency shall establish the amount of the audit determination as a claim of the United States which the State or the local educational agency shall be required to pay to the United States and which may be collected by the Commissioner in accordance with the Federal Claims Collection Act of 1966 [31 U.S.C. 951 et seq.].

(f) Compromise of claims

(1) Notwithstanding any other provision of law, the Commissioner may, subject to the notice requirements of paragraph (2), compromise any claim established under this section for which the initial determination was found to be not in excess of $50,000, where the Commissioner determines that (A) the collection of any or all of the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the claim has been corrected and will not recur.

(2) Not less than forty-five days prior to the exercise of the authority to compromise a claim pursuant to paragraph (1), the Commissioner shall publish in the Federal Register a notice of his intention to do so. Such notice shall provide

interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

(g) Five-year limitation period

No State and no local educational agency shall be liable to refund any amount expended under an applicable program which is determined to be unauthorized by law if that expenditure was made more than five years before that State or local educational agency is given the notice required by subsection (a) of this section.

(h) Board personnel

The Secretary shall employ, assign, or transfer sufficient professional personnel to ensure that all matters brought before the Board may be dealt with in a timely manner.

(Pub. L. 90-247, title IV, § 452, as added Pub. L. 95-561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2347.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152. Titles VI and VII of the 1965 Act, which were formerly classified to subchapters IV (§ 871 et seq.) and IV-A (880b et seq.) of chapter 24 of this title, respectively, are now classified generally to subchapters VI (§ 3191 et seq.) and VII (§ 3221 et seq.) of chapter 47 of this title, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Emergency School Aid Act, referred to in subsec. (a), is title VI of Pub. L. 89-10, as added by Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2252, which is classified generally to subchapter VI (§ 3191 et seq.) of chapter 47 of this title. For complete classification of this Act to the Code, see section 3191 of this title and Tables.

The Federal Claims Collection Act of 1966, referred to in subsec. (e), is Pub. L. 89-508, July 19, 1966, 80 Stat. 308, as amended, which is classified generally to chapter 18 (§ 951 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 31 and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234, 1234d of this title.

§ 1234b. Withholdings

(a) Notification of intention to withhold

Whenever the Commissioner has reason to believe that any recipient of funds under any applicable program (other than a program to which regulations promulgated under section 1088f-1 of this title apply), has failed to comply substantially with any requirement of law applicable to such funds, he shall notify such recipient in writing of his intention to withhold, in whole or in part, further payments under such program, including payments for State or local administrative costs, until he is satisfied that the recipient no longer fails to comply with such assurances or other terms.

(b) Notice and hearing

The notification required under subsection (a) of this section shall state (1) the facts upon which the Commissioner has based his belief and (2) a notice of opportunity for a hearing to be held on a date at least thirty days after the notification has been sent to the recipient. The hearing shall be held before the Board and shall be conducted in accordance with rules prescribed pursuant to section 1234(e) of this title.

(c) Suspension of payments pending outcome of proceedings

Pending the outcome of any proceeding initiated under this section, the Commissioner may suspend payments to such a recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

(d) Finality of decision

The decision of the Board in any proceeding brought under this section shall become final unless within sixty days following receipt by the recipient of written notice of the decision—

(1) the Commissioner for good cause shown, modifies, or sets aside the decision in whole or in part, in which case the decision as modified shall become final sixty days after such action by the Commissioner, or

(2) the recipient files a petition for judicial review as provided in section 1234d of this title.

(Pub. L. 90-247, title IV, § 453, as added Pub. L. 95-561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2349.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234, 1234c, 1234d, 2832 of this title.

§ 1234c. Cease and desist orders

(a) Complaint

Whenever the Commissioner has reason to believe that any State or any local educational agency that receives funds under any applicable program has failed to comply substantially with any requirement of law applicable to such funds, in lieu of proceeding under section 1234b of this title, the Commissioner may issue and cause to be served upon such State or upon such local educational agency a complaint (1) stating the charges upon which his belief is based, and (2) containing a notice of a hearing to be held before the Board on a date at least thirty days after the service of that complaint.

(b) Appearance before Board

The State or the local educational agency upon which such a complaint has been served shall have the right to appear before the Board on the date specified and to show cause why an order should not be entered by the Board requiring such State or such local educational agency to cease and desist from the violation of law charged in the complaint.

(c) Testimony; report; findings of fact; issuance and service of order

The testimony in any hearing held under this section shall be reduced to writing and filed with the Board. If upon that hearing the Board shall be of the opinion that the State or the local educational agency is in violation of any requirement of law as charged in the complaint, it shall make a report in writing stating its findings of fact and shall issue and cause to be served upon the State or the local educational agency an order requiring the State or the local educational agency to cease and desist from the practice, policy, or procedure which resulted in such violation.

(d) Finality

The report and order of the Board shall become final on the sixtieth day following the date upon which the order of the Board was served upon the State or the local educational agency unless before that day the State or local educational agency files a petition for judicial review as provided in section 1234d of this title.

(e) Enforcement

A final order of the Board under this section may be enforced, as determined by the Commissioner, by—

(1) the withholding of any portion of the amount payable, including amounts payable for administrative costs, under the affected program to the State or the local educational agency against which the final order has been issued, or

(2) the Commissioner certifying the facts to the Attorney General whose duty it shall be to cause appropriate proceeding to be brought for the enforcement of the order.

(Pub. L. 90-247, title IV, § 454, as added Pub. L. 95-561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2349.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234, 1234d of this title.

§ 1234d. Judicial review

(a) Entitlement to judicial review

Any recipient of funds under an applicable program that would be adversely affected by any action under section 1234a, 1234b, or 1234c of this title, and any State entitled to receive funds under a program listed in section 1232d(a) of this title whose application therefor has been disapproved by the Commissioner, shall be entitled to judicial review of such action in accordance with the provision of this section.

(b) Petition for review

Any State, local educational agency, or other recipient entitled to judicial review under subsection (a) of this section that desires such review of any action by the Commissioner or the Board qualifying for review under this section shall, within sixty days of that action, file with the United States Court of Appeals for the circuit in which that State, local educational agency, or other recipient is located, a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28.

(c) Conclusiveness of findings of fact; remand to take further evidence

The findings of fact by the Board, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Board to take further evidence, and the Board may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(d) Disposition of proceedings by court; review by United States Supreme Court

The court shall have jurisdiction to affirm the action of the Board or the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 90-247, title IV, § 455, as added Pub. L. 95-561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2350.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234a, 1234b, 1234c of this title.

§ 1234e. Use of recovered funds

(a) Repayment

Whenever the Commissioner has recovered funds following a final audit determination with respect to any applicable program, he may consider those funds to be additional funds available for that program and may arrange to repay to the State or the local agency affected by that action not to exceed 75 percent of those funds upon his determination that—

(1) the practices or procedures of the State or local agency that resulted in the audit determination have been corrected, and that the State or the local agency is in all other respects in compliance with the requirement of that program;

(2) the State or the local agency has submitted to the Commissioner a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally granted.

(b) Conditions

Any payments by the Commissioner under this section shall be subject to such other conditions as the Commissioner deems necessary to accomplish the purposes of the affected programs, including—

(1) the submission of periodic reports on the use of funds provided under this section; and

(2) consultation by the State or local agency with parents or representatives of the population that will benefit from the payments.

(c) Three-year availability period

Notwithstanding any other provisions of law, the Commissioner may authorize amounts made available under this section to remain available for expenditure, subject to such conditions as he deems appropriate, for up to three fiscal years following the fiscal year in which the audit determination referred to in subsection (a) of this section was made.

(d) Notice of proposed arrangements

At least thirty days prior to entering into an arrangement under this section, the Commissioner shall publish in the Federal Register a notice of his intent to do so and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least thirty days to submit comments to the Commissioner regarding the proposed arrangement.

(Pub. L. 90-247, title IV, § 456, as added Pub. L. 95-561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2351.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 33—EDUCATION OF THE HANDICAPPED

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3441 of this title; title 29 sections 721, 876.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1401. Definitions

As used in this chapter—

[*See main edition for text of* (*1*) *to* (*19*)]

(20) The term "excess costs" means those costs which are in excess of the average annual per student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting (A) amounts received under this subchapter or under title I [20 U.S.C. 2701 et seq.] or title VII [20 U.S.C. 3221 et seq.] of the Elementary and Secondary Education Act of 1965, and (B) any State or local funds expended for programs which would qualify for assistance under this subchapter or under such titles.

(21) The term "native language" has the meaning given that term by section 703(a)(2) of the Bilingual Education Act [20 U.S.C. 3223(a)(2)].

[*See main edition for text of* (*22*); *credits*]

REFERENCES IN TEXT

This Act, referred to in par. (11)(E), is Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 121, which is popularly known as the Elementary and Secondary Education Amendments of 1970. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 2701 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in par. (20), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152. Title I of the 1965 Act, which was formerly classified to subchapter II (§ 241a et seq.) of chapter 13 of this title, is now classified generally to subchapter I (§ 2701 et seq.) of this title. Title VII of that Act, known as the Bilingual Education Act, was formerly classified to subchapter IV-A (§ 880b et seq.) of chapter 24 of this title, and is now classified generally to subchapter VII (§ 3221 et seq.) of chapter 47 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

SHORT TITLE OF 1977 AMENDMENT

Section 1 of Pub. L. 95-49, June 17, 1977, 91 Stat. 230, provided: "That this Act [amending sections 1426, 1436, 1441, 1444, and 1454 of this title, and enacting provisions set out as notes under this section and section 1426 of this title] may be cited as the 'Education of the Handicapped Amendments of 1977'."

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

TERMINATION OF ADVISORY COMMITTEE

The National Advisory Committee on Handicapped Children terminated Oct. 1, 1977 pursuant to section 1403 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 238, 244, 2771, 3112 of this title; title 42 section 2928b.

§ 1402. Bureau for education and training of the handicapped; Deputy Commissioner: appointment and compensation; Associate Deputy Commissioner and other assistants to Deputy Commissioner

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1403. Omitted

Codification

Section, Pub. L. 91-230, title VI, § 604, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93-380, title VI, § 613, Aug. 21, 1974, 88 Stat. 580; Pub. L. 94-237, §§ 3(14), 13(2), Apr. 21, 1976, 90 Stat. 376, 378, relating to the establishment and termination of the National Advisory Committee on Handicapped Children, was omitted from the Code as obsolete in view of the termination of the Committee on Oct. 1, 1977.

§§ 1404 to 1406

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER II—ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED CHILDREN

§ 1411. Entitlements and allocations

(a) Formula for determining maximum State entitlement

[*See main edition for text of* (*1*) *and* (*2*)]

(3) The number of handicapped children receiving special education and related services in any fiscal year shall be equal to number of such children receiving special education and related services on December 1 of the fiscal year preceding the fiscal year for which the determination is made.

[*See main edition for text of* (*4*) *and* (*5*); (*b*) *to* (*g*)]

(As amended Pub. L. 95-561, title XIII, § 1341(a), Nov. 1, 1978, 92 Stat. 2364.)

References in Text

Section 241c-1 of this title, referred to in subsec. (a)(5)(A)(ii), was in the original "section 121 of the Elementary and Secondary Education Act of 1965" and was repealed by Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200. See section 2771 et seq. of this title.

Amendments

1978—Subsec. (a)(3). Pub. L. 95-561 substituted "equal to the number of such children" for "equal to the average of the number of such children" and "December 1 of the fiscal year" for "October 1 and February 1 of the fiscal year".

Effective Date of 1978 Amendment

Section 1341(b) of Pub. L. 95-561 provided that: "The amendments made by subsection (a) of this section [amending this section] shall take effect with respect to determinations made in fiscal year 1979 and thereafter."

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Duties and Responsibilities of Secretary of Interior Respecting Funds

Pub. L. 92-318, title IV, § 421(b)(2), June 23, 1972, 86 Stat. 341, provided that: "For the purposes of titles II and III of the Elementary and Secondary Education Act of 1965 [former sections 821 et seq. and 841 et seq. of this title] and part B of title VI of Public Law 91-230 [sections 1411 to 1414 of this title], the Secretary of the Interior shall have the same duties and responsibilities with respect to funds paid to him under such titles, as he would have if the Department of the Interior were a State educational agency having responsibility for the administration of a State plan under such titles."

§ 1412. Eligibility requirements

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This chapter is referred to in sections 1411, 1413, 1414, 1416, 1418, 1419 of this title; title 29 section 796d.

§ 1413. State plans

References in Text

Section 241c-1 of this title, referred to in subsec. (a)(2), was in the original "section 121 of the Elementary and Secondary Education Act of 1965" and was repealed by Pub. L. 95-561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200. See section 2771 et seq. of this title.

Section 844a(b)(8) of this title, referred to in subsec. (a)(2), was in the original "section 305(b)(8) of such Act (20 U.S.C. 844a(b)(8))" meaning section 305 of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, title III, § 305, as added Pub. L. 90-247, title I, § 131, Jan. 2, 1968, 81 Stat. 792, which was omitted from the Code in the general revision of title III of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561, title III, § 301, Nov. 1, 1978, 92 Stat. 2210.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1414. Application

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1401, 1411, 1412, 1413, 1418, 1420 of this title; title 29 section 796d.

§§ 1416 to 1420

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER III—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF THE HANDICAPPED

§§ 1421 to 1425

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1426. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of section 1421 of this title, $19,000,000 for the fiscal year 1978 and for the succeeding fiscal year, $21,000,000 for fiscal year 1980, $24,000,000 for fiscal year 1981, and $25,000,000 for fiscal year 1982. There are authorized to be appropriated to carry out the provisions of section 1422 of this title, $22,000,000 for fiscal year 1978, $24,000,000 for fiscal year 1979, $26,000,000 for fiscal year 1980, $29,000,000 for fiscal year 1981, and $32,000,000 for fiscal year 1982. There are authorized to be appropriated to carry out the provisions of section 1423 of this title, $25,000,000 for fiscal year 1978 and for each of the two succeeding fiscal years, $20,000,000 for fiscal year 1981 and for the succeeding fiscal year. There are authorized to be appropriated to carry out the provisions of section 1424a of this title, $10,000,000 for the fiscal year 1978, $12,000,000 for the fiscal year 1979, $14,000,000 for the fiscal year 1980, and $16,000,000 for the fiscal year 1981 and for the succeeding fiscal year.

(As amended Pub. L. 95-49, § 2, June 17, 1977, 91 Stat. 230.)

Amendments

1977—Pub. L. 95-49 authorized appropriations of $19,000,000 for fiscal year 1978, $19,000,000 for fiscal year 1979, $21,000,000 for fiscal year 1980, $24,000,000 for fiscal year 1981, and $25,000,000 for fiscal year 1982 to carry out the provisions of section 1421 of this title, authorized appropriations of $22,000,000 for fiscal year 1978, $24,000,000 for fiscal year 1979, $26,000,000 for fiscal year 1980, $29,000,000 for fiscal year 1981, and $32,000,000 for fiscal year 1982 to carry out the provisions of section 1422 of this title, authorized appropriations of $25,000,000 for fiscal year 1978, $25,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, $20,000,000 for fiscal year 1981, and $20,000,000 for fiscal year 1982 to carry out the provisions of section 1423 of this title, and authorized appropriations of $10,000,000 for fiscal year 1978, $12,000,000 for fiscal year 1979, $14,000,000 for fiscal year 1980, $16,000,000 for fiscal year 1981, and $16,000,000 for fiscal year 1982 to carry out the provisions of section 1424a of this title.

Effective Date of 1977 Amendment

Section 7 of Pub. L. 95-49 provided that: "The amendments made by sections 2, 3, 5, and 6 [amending this section and sections 1436, 1444, and 1454 of this title] shall take effect on October 1, 1977."

SUBCHAPTER IV—TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED

§§ 1431 to 1435

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1436. Authorization of appropriations

There are authorized to be appropriated for carrying out the provisions of this subchapter (other than section 1433 of this title) $75,000,000 for the fiscal year 1978, $80,000,000 for the fiscal year 1979, $85,000,000 for the fiscal year 1980, $90,000,000 for the fiscal year 1981, and $95,000,000 for the fiscal year 1982. There are authorized to be appropriated to carry out the provisions of section 1433 of this title, $2,000,000 for the fiscal year 1978 and the succeeding fiscal year, and $2,500,000 for the fiscal year 1980 and each of the two succeeding fiscal years.

(As amended Pub. L. 95-49, § 3, June 17, 1977, 91 Stat. 230.)

Amendments

1977—Pub. L. 95-49 authorized appropriations of $75,000,000 for fiscal year 1978, $80,000,000 for fiscal year 1979, $85,000,000 for fiscal year 1980, $90,000,000 for fiscal year 1981, and $95,000,000 for fiscal year 1982 for carrying out the provisions of this subchapter (other than section 1433 of this title), and authorized appropriations of $2,000,000 for fiscal year 1978, $2,000,000 for fiscal year 1979, $2,500,000 for fiscal year 1980, $2,500,000 for fiscal year 1981, and $2,500,000 for fiscal year 1982 to carry out the provisions of section 1433 of this title.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95-49 effective on Oct. 1, 1977, see section 7 of Pub. L. 95-49, set out as an Effective Date of 1977 Amendment note under section 1426 of this title.

SUBCHAPTER V—RESEARCH IN THE EDUCATION OF THE HANDICAPPED

§ 1441. Research, surveys, demonstration projects, and model programs relating to education of handicapped children

The Commissioner is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for handicapped children, and to conduct research, surveys, or demonstrations relating to physical education or recreation for handicapped children, including the development and conduct of model programs designed to meet the special educational needs of such children.

(As amended Pub. L. 95-49, § 4, June 17, 1977, 91 Stat. 230.)

AMENDMENTS

1977—Pub. L. 95-49 added provisions calling for the development and conduct of model programs designed to meet the special educational needs of handicapped children.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 1442, 1443

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1444. Authorization of appropriations

For the purposes of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1978, $22,000,000 for the fiscal year 1979, $24,000,000 for the fiscal year 1980, $26,000,000 for the fiscal year 1981, and $28,000,000 for the fiscal year 1982.

(As amended Pub. L. 95-49, § 5, June 17, 1977, 91 Stat. 231.)

AMENDMENTS

1977—Pub. L. 95-49 authorized the appropriation of $20,000,000 for fiscal year 1978, $22,000,000 for fiscal year 1979, $24,000,000 for fiscal year 1980, $26,000,000 for fiscal year 1981, and $28,000,000 for fiscal year 1982 for the purposes of carrying out this subchapter.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-49 effective on Oct. 1, 1977, see section 7 of Pub. L. 95-49, set out as an Effective Date of 1977 Amendment note under section 1426 of this title.

SUBCHAPTER VI—INSTRUCTIONAL MEDIA FOR THE HANDICAPPED

§§ 1452, 1453

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 1454. Authorization of appropriations

For the purpose of carrying out this subchapter there are authorized to be appropriated not to exceed $24,000,000 for the fiscal year 1978, $25,000,000 for the fiscal year 1979, $27,000,000 for the fiscal year 1980, $29,000,000 for the fiscal year 1981 and for each succeeding fiscal year thereafter.

(As amended Pub. L. 95-49, § 6, June 17, 1977, 91 Stat. 231.)

AMENDMENTS

1977—Pub. L. 95-49 raised the appropriation authorization for fiscal year 1978 from $22,000,000 to $24,000,000, for fiscal year 1979 from $22,000,000 to $25,000,000, for fiscal year 1980 from $22,000,000 to $27,000,000, and for fiscal year 1981 and each succeeding fiscal year thereafter from $22,000,000 to $29,000,000.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-49 effective on Oct. 1, 1977, see section 7 of Pub. L. 95-49, set out as an Effective Date of 1977 Amendment note under section 1426 of this title.

SUBCHAPTER VII—SPECIAL PROGRAMS FOR CHILDREN WITH SPECIFIC LEARNING DISABILITIES

§ 1461. Research, training, and model centers

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 34—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3441 of this title.

§ 1502. Establishment; administrative services

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 35—ENVIRONMENTAL EDUCATION

CODIFICATION

The Environmental Education Act, which comprised this chapter, contained appropriation authorizations for fiscal years 1971 to 1977. The Act was superseded by Part H of title III of Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2217, known as the Environmental Education Act of 1978, which is classified to section 3011 et seq. of this title.

§§ 1531 to 1536. Omitted

CODIFICATION

Section 1531, Pub. L. 91-516, § 2, Oct. 30, 1970, 84 Stat. 1312; Pub. L. 93-278, § 4, May 10, 1974, 88 Stat. 121, set forth Congressional declaration of findings and purpose of the Environmental Education Act. The subject of this section is covered by section 3011 of this title.

Section 1532, Pub. L. 91-516, § 3, Oct. 30, 1970, 84 Stat. 1312; Pub. L. 93-278, §§ 2, 5, 6, May 10, 1974, 88

Stat. 121; Pub. L. 94-273, § 3(15), Apr. 21, 1976, 90 Stat. 376, established an office of environmental education, authorized grants and contracts, and established an Advisory Council on Environmental Education. The subject of this section is covered by sections 3012, 3013, and 3014 of this title.

Section 1533, Pub. L. 91-516, § 4, Oct. 30, 1970, 84 Stat. 1315, related to technical assistance to eligible agencies and organizations. The subject of this section is covered by section 3015 of this title.

Section 1534, Pub. L. 91-516, § 5, Oct. 30, 1970, 84 Stat. 1315, authorized grants to nonprofit organizations. The subject of this section is covered by section 3016 of this title.

Section 1535, Pub. L. 91-516, § 6, Oct. 30, 1970, 84 Stat. 1315, related to administration of the Act. The subject is covered by section 3017 of this title.

Section 1536, Pub. L. 91-516, § 7, Oct. 30, 1970, 84 Stat. 1315; Pub. L. 93-278, § 3, May 10, 1974, 88 Stat. 121, authorized appropriations to carry out the purposes of the Act. The subject of this section is covered by section 3018 of this title.

CHAPTER 36—EMERGENCY SCHOOL AID

§§ 1601 to 1619. Repealed. Pub. L. 95-561, title VI, § 601(b)(2), Nov. 1, 1978, 92 Stat. 2268

Section 1601, Pub. L. 92-318, title VII, § 702, June 23, 1972, 86 Stat. 354, related to congressional findings and purpose with respect to this chapter. See section 3192 of this title.

Section 1602, Pub. L. 92-318, title VII, § 703, June 23, 1972, 86 Stat. 354, related to the policy of the United States with respect to the application of certain provisions of Federal laws. See section 3193 of this title.

Section 1603, Pub. L. 92-318, title VII, § 704, June 23, 1972, 86 Stat. 355; Pub. L. 93-380, title VI, §§ 641(a), 642(a), Aug. 21, 1974, 88 Stat. 587; Pub. L. 94-482, title III, § 321(a)-(c)(1), Oct. 12, 1976, 90 Stat. 2216; Pub. L. 95-561, title VI, § 601(b)(1), Nov. 1, 1978, 92 Stat. 2268, authorized appropriations for the purpose of carrying out this chapter. See section 3194 of this title.

Section 1604, Pub. L. 92-318, title VII, § 705, June 23, 1972, 86 Stat. 355, related to apportionment to the States of sums appropriated pursuant to section 1603(a) of this title for grants and contracts. See section 3195 of this title.

Section 1605, Pub. L. 92-318, title VII, § 706, June 23, 1972, 86 Stat. 356; Pub. L. 93-380, title VI, § 643(a), (b), Aug. 21, 1974, 88 Stat. 587; S. Res. 4, Feb. 4, 1977, related to eligibility for assistance. See section 3196 of this title.

Section 1606, Pub. L. 92-318, title VII, § 707, June 23, 1972, 86 Stat. 359; Pub. L. 94-482, title III, § 321(c)(2), Oct. 12, 1976, 90 Stat. 2217, related to authorized activities with respect to financial assistance. See section 3197 of this title.

Section 1607, Pub. L. 92-318, title VII, § 708, June 23, 1972, 86 Stat. 360; Pub. L. 93-380, title VI, §§ 644, 645, Aug. 21, 1974, 88 Stat. 588, related to special programs and projects with respect to financial assistance. See section 3198 of this title.

Section 1608, Pub. L. 92-318, title VII, § 709, June 23, 1972, 86 Stat. 361; Pub. L. 93-380, title II, § 222, title VI, § 642(b), Aug. 21, 1974, 88 Stat. 519, 587; Pub. L. 94-482, title V, § 501(i), Oct. 12, 1976, 90 Stat. 2237, related to the availability of sums for metropolitan area projects. See section 3199 of this title.

Section 1609, Pub. L. 92-318, title VII, § 710, June 23, 1972, 86 Stat. 362; Pub. L. 93-380, title VI, § 643(c), Aug. 21, 1974, 88 Stat. 587; Pub. L. 94-482, title III, § 323(a)(5), Oct. 12, 1976, 90 Stat. 2218, related to applications for assistance. See section 3200 of this title.

Section 1610, Pub. L. 92-318, title VII, § 711, June 23, 1972, 86 Stat. 366, related to the availability of funds for educational television. See section 3201 of this title.

Section 1611, Pub. L. 92-318, title VII, § 712, June 23, 1972, 86 Stat. 366, related to payment of assistance to the applicant. See section 3202 of this title.

Section 1612, Pub. L. 92-318, title VII, § 713, June 23, 1972, 86 Stat. 367, related to evaluation of programs and projects assisted under this chapter. See section 3203 of this title.

Section 1613, Pub. L. 92-318, title VII, § 714, June 23, 1972, 86 Stat. 368; S. Res. 4, Feb. 4, 1977, related to reports to the President and congressional committees.

Section 1614, Pub. L. 92-318, title VII, § 715, June 23, 1972, 86 Stat. 368, related to administration of joint funding with respect to the programs and projects under this chapter. See section 3204 of this title.

Section 1615, Pub. L. 92-318, title VII, § 716, June 23, 1972, 86 Stat. 368; Pub. L. 93-380, title VIII, § 845(e), Aug. 21, 1974, 88 Stat. 612; Pub. L. 94-43, § 3, June 28, 1975, 89 Stat. 233; Pub. L. 94-482, title III, § 321(d), Oct. 12, 1976, 90 Stat. 2217, related to the establishment of the National Advisory Council on Equality of Educational Opportunity.

Section 1616, Pub. L. 92-318, title VII, § 717(a), June 23, 1972, 86 Stat. 369, related to the applicability of the General Education Provisions Act to this chapter.

Section 1617, Pub. L. 92-318, title VII, § 718, June 23, 1972, 86 Stat. 369, related to the allowance of reasonable attorney's fees respecting a final order by a court against an educational agency, a State, etc., for failure to comply with the provisions of this chapter, discrimination on the basis of race, etc. See section 3205 of this title.

Section 1618, Pub. L. 92-318, title VII, § 719, June 23, 1972, 86 Stat. 369, related to the effect of this chapter on the method of student assignment. See section 3206 of this title.

Section 1619, Pub. L. 92-318, title VII, § 720, June 23, 1972, 86 Stat. 369; Pub. L. 93-380, title VI, § 643(d), Aug. 21, 1974, 88 Stat. 587; Pub. L. 94-482, title III, § 321(c)(3), Oct. 12, 1976, 90 Stat. 2217, defined terms used in this chapter. See section 3207 of this title.

EFFECTIVE DATE OF REPEAL

Section 601(b)(2) of Pub. L. 95-561 provided that the repeal of sections 1601 to 1619 of this title is effective Sept. 30, 1979.

CHAPTER 37—ASSIGNMENT OR TRANSPORTATION OF STUDENTS

§ 1652. Prohibition against busing

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 38—DISCRIMINATION BASED ON SEX OR BLINDNESS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1232, 3341, 3342 of this title; title 29 section 206; title 42 section 1988.

§ 1681. Sex

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 39—EQUAL EDUCATIONAL OPPORTUNITIES AND TRANSPORTATION OF STUDENTS

SUBCHAPTER I—EQUAL EDUCATIONAL OPPORTUNITIES

PART 5—DEFINITIONS

§ 1720. Definitions

For the purposes of this subchapter—

(a) The term "educational agency" means a local educational agency or a "State educational agency" as defined by section 3381(k) of this title.

(b) The term "local educational agency" means a local educational agency as defined by section 3381(f) of this title.

[*See main edition for text of* (c) *to* (e); *credits*]

CODIFICATION

In subsecs. (a) and (b), references to "section 3381(k) of this title" and "section 3381(f) of this title" were in the original "section 801(k) of the Elementary and Secondary Education Act of 1965" and "section 801(f) of the Elementary and Secondary Education Act of 1965", respectively, meaning section 801, title VIII, of Pub. L. 89-10, which was formerly classified to section 881 of this title. Section 801 of that Act was renumbered section 1001 of title X by Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and was reclassified to section 3381 of this title.

SUBCHAPTER II—ASSIGNMENT AND TRANSPORTATION OF STUDENTS

§ 1757. Prohibition of forced busing during school year

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 40—CONSOLIDATION OF EDUCATION PROGRAMS

SUBCHAPTER I—LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION, AND SUPPORT

PART A—GENERAL PROVISIONS

§§ 1801 to 1806. Omitted

CODIFICATION

Sections were omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143.

Section 1801, Pub. L. 89-10, title IV, § 401, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 535, and amended Pub. L. 94-482, title III, § 328, Oct. 12, 1976, 90 Stat. 2220; Pub. L. 95-112, § 2(d), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for making grants for libraries and library resources for fiscal years ending prior to Oct. 1, 1979. See section 3082 of this title.

Section 1802, Pub. L. 89-10, title IV, § 402, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 537, provided for allotments to States. See section 3083 of this title.

Section 1803, Pub. L. 89-10, title IV, § 403, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 538, and amended Pub. L. 94-482, title III, § 323(a)(3), title V, § 501(e)(1), Oct. 12, 1976, 90 Stat. 2217, 2237, provided for the structure and function of State plans. See section 3084 of this title.

Section 1804, Pub. L. 89-10, title IV, § 404, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 540, required that the Commissioner afford the State educational agency reasonable notice and opportunity for a hearing prior to final disapproval of a State plan.

Section 1805, Pub. L. 89-10, title IV, § 405, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 541 related to payments to States. See section 3085 of this title.

Section 1806, Pub. L. 89-10, title IV, § 406, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 541, and amended Pub. L. 94-482, title III, § 324, title V, § 501(r), Oct. 12, 1976, 90 Stat. 2220, 2238, related to the participation of children enrolled in private schools. See section 3086 of this title.

PART B—LIBRARIES AND LEARNING RESOURCES

§ 1821. Omitted

CODIFICATION

Section, Pub. L. 89-10, title IV, § 421, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 542, which authorized a program of grants relating to libraries and learning resources, was omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143. See section 3101 of this title.

PART C—EDUCATIONAL INNOVATION AND SUPPORT

§§ 1831, 1832. Omitted

CODIFICATION

Section 1831, Pub. L. 89-10, title IV, § 431, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 543, and amended Pub. L. 94-482, title V, § 501(e)(2), Oct. 12, 1976, 90 Stat. 2237, which authorized a program of educational innovation and support, was omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143. See section 3082 of this title.

Section 1832, Pub. L. 89-10, title IV, § 432, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 544, which provided for the use of cultural and educational resources, was omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143.

SUBCHAPTER II—SPECIAL PROJECTS

§§ 1851 to 1853. Repealed. Pub. L. 95-561, title III, § 301(b)(2), Nov. 1, 1978, 92 Stat. 2228

Section 1851, act July 26, 1954, ch. 576, § 2, as added Aug. 21, 1974, Pub. L. 93-380, title IV, § 402(a)(1), 88 Stat. 544, set out the Congressional statement of purpose in making provision for special projects to experiment with new educational and administrative methods, techniques, and practices, to meet special or unique educational needs or problems, and to place special emphasis on national education priorities. See section 2941 of this title.

Section 1852, act July 26, 1954, ch. 576, § 3, as added Aug. 21, 1974, Pub. L. 93-380, title IV, § 402(a)(1), 88 Stat. 544, and amended Apr. 21, 1976, Pub. L. 94-273, § 2(14), 90 Stat. 375, authorized the Commissioner to contract with public and private groups in carrying out special projects. See section 2942 of this title.

Section 1853, act July 26, 1954, ch. 576, § 4, as added Aug. 21, 1974, Pub. L. 93-380, title IV, § 402(a)(1), 88 Stat. 545, and amended Oct. 12, 1976, Pub. L. 94-482, title IV, § 409(c), 90 Stat. 2233; S. Res. 4, Feb. 4, 1977, authorized appropriations for section 1852 contracts and the development of plans for the succeeding year. See section 2941 et seq. of this title.

Effective Date of Repeal

Section 301(b)(2) of Pub. L. 95-561 provided in part that the repeal of sections 1851 to 1853 of this title is effective Sept. 30, 1979.

SUBCHAPTER III—PREFERENTIAL PROGRAMS

§§ 1861 to 1864. Repealed. Pub. L. 95-561, title III, § 301(b)(1)(A)-(D), Nov. 1, 1978, 92 Stat. 2228

Section 1861, Pub. L. 93-380, title IV, § 402(b), Aug. 21, 1974, 88 Stat. 545, related to the reservation and apportionment of funds for certain authorized and described programs. See section 2941 et seq. of this title.

Section 1862, Pub. L. 93-380, title IV, § 403, Aug. 21, 1974, 88 Stat. 546, related to education for the use of the metric system of measurement. See section 2951 et seq. of this title.

Section 1863, Pub. L. 93-380, title IV, § 404, Aug. 21, 1974, 88 Stat. 547, related to the education of gifted and talented children. See section 3311 et seq. of this title.

Section 1864, Pub. L. 93-380, title IV, § 405, Aug. 21, 1974, 88 Stat. 549; Pub. L. 94-482, title V, § 501(a)(5), Oct. 12, 1976, 90 Stat. 2235, related to Community schools. See section 3281 et seq. of this title.

Effective Date of Repeal

Section 301(b)(1) of Pub. L. 95-561 provided in part that the repeal of sections 1861 to 1864 of this title is effective Sept. 30, 1979.

§ 1865. Transferred

Codification

Section, Pub. L. 93-380, title IV, § 406, Aug. 21, 1974, 88 Stat. 551; Pub. L. 94-273, § 2(15), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94-482, title V, § 501(a)(6), (7), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 95-207, § 13(e), Dec. 13, 1977, 91 Stat. 1472; Pub. L. 95-561, title III, § 301(b)(1)(E), (3), Nov. 1, 1978, 92 Stat. 2228, which related to career education and the establishment of the Office of Career Education and the National Advisory Council for Career Education, was transferred to section 2612a of this title.

§§ 1866, 1867. Repealed. Pub. L. 95-561, title III, § 301(b)(1)(G), (H), Nov. 1, 1978, 92 Stat. 2228

Section 1866, Pub. L. 93-380, title IV, § 408, Aug. 21, 1974, 88 Stat. 554; Pub. L. 94-482, title III, § 325, title V, § 501(a)(8), Oct. 12, 1976, 90 Stat. 2220, 2235, related to educational equity for women. See section 3341 of this title.

Section 1867, Pub. L. 93-380, title IV, § 409, Aug. 21, 1974, 88 Stat. 556; Pub. L. 94-273, § 2(15), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94-462, title V, § 501, Oct. 8, 1976, 90 Stat. 1981, provided for a program of elementary and secondary school education in the arts. See section 2961 et seq. of this title.

Effective Date of Repeal

Section 301(b)(1) of Pub. L. 95-561 provided in part that the repeal of sections 1866 and 1867 of this title is effective Sept. 30, 1979.

CHAPTER 41—NATIONAL READING IMPROVEMENT PROGRAM

§ 1901. Repealed. Pub. L. 95-561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section, Pub. L. 93-380, title VII, § 701, Aug. 21, 1974, 88 Stat. 588, set forth statement of purpose for provisions respecting national reading improvement program.

Effective Date of Repeal

Section repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§ 1921. Repealed. Pub. L. 95-561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section, Pub. L. 93-380, title VII, § 705, Aug. 21, 1974, 88 Stat. 589; Pub. L. 94-194, §§ 1(a), (b)(3), 2, 3, Dec. 31, 1975, 89 Stat. 1103, 1104, set forth requirements for agreements for reading deficiencies projects with State and local educational agencies.

Effective Date of Repeal

Section repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§§ 1941 to 1944. Repealed. Pub. L. 95-561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section 1941, Pub. L. 93-380, title VII, § 711, Aug. 21, 1974, 88 Stat. 591, set forth provisions respecting statement of purpose for State reading improvement programs.

Section 1942, Pub. L. 93-380, title VII, § 712, Aug. 21, 1974, 88 Stat. 591, set forth applicability and effective date of provisions respecting State reading improvement programs.

Section 1943, Pub. L. 93-380, title VII, § 713, Aug. 21, 1974, 88 Stat. 591, set forth requirements for allotments and reallotments for States.

Section 1944, Pub. L. 93-380, title VII, § 714, Aug. 21, 1974, 88 Stat. 592; Pub. L. 94-194, § 4, Dec. 31, 1975, 89 Stat. 1104, set forth provisions respecting requirements for grants for State reading improvement programs.

Effective Date of Repeal

Sections repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§§ 1961 to 1966. Repealed. Pub. L. 95-561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section 1961, Pub. L. 93-380, title VII, § 721, Aug. 21, 1974, 88 Stat. 594; Pub. L. 94-194, § 10, Dec. 31, 1975, 89 Stat. 1107, set forth provisions relating to contracting requirements for special emphasis projects.

Section 1962, Pub. L. 93-380, title VII, § 722, Aug. 21, 1974, 88 Stat. 595, set forth provisions relating to granting and contracting requirements for reading training on public television.

Section 1963, Pub. L. 93-380, title VII, § 723, Aug. 21, 1974, 88 Stat. 595; Pub. L. 94-194, § 5, Dec. 31, 1975, 89 Stat. 1104, set forth provisions relating to granting and contracting requirements for reading academies.

Section 1964, Pub. L. 93-380, title VII, § 724, as added Pub. L. 94-194, § 1(b)(1), Dec. 31, 1975, 89 Stat. 1103, set forth provisions relating to scope, authority, etc., with respect to State leadership and training activity agreements.

Section 1965, Pub. L. 93-380, title VII, § 725, as added and amended Pub. L. 94-194, § 6(a), (b)(1), Dec. 31, 1975, 89 Stat. 1104, 1105, set forth provisions relating to granting and contracting requirements for national impact reading programs.

Section 1966, Pub. L. 93-380, title VII, § 726, as added Pub. L. 94-194, § 9(a), Dec. 31, 1975, 89 Stat. 1105, set forth provisions relating to contracting requirements for an inexpensive book distribution program for reading motivation.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

§§ 1981 to 1983. Repealed. Pub. L. 95-561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section 1981, Pub. L. 93-380, title VII, § 731, Aug. 21, 1974, 88 Stat. 596; Pub. L. 94-194, § 7, Dec. 31, 1975, 89 Stat. 1105; S. Res. 4, Feb. 4, 1977, set forth evaluation requirements for programs.

Section 1982, Pub. L. 93-380, title VII, § 732, Aug. 21, 1974, 88 Stat. 596; Pub. L. 94-194, §§ 1(c), 6(c), 9(b), Dec. 31, 1975, 89 Stat. 1104-1106, set forth provisions authorizing appropriations for covered programs.

Section 1983, Pub. L. 93-380, title VII, § 733, as added Pub. L. 94-194, § 8, Dec. 31, 1975, 89 Stat. 1105, set forth provisions relating to acceptance of gifts or donations by the Commissioner.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

CHAPTER 42—HARRY S TRUMAN MEMORIAL SCHOLARSHIPS

§ 2004. Harry S Truman Scholarship Foundation

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 43—AMERICAN FOLKLIFE PRESERVATION

§ 2103. American Folklife Center

[*See main edition for text of* (*a*) *and* (*b*)]

(c) Term of office

The term of office of each appointed member of the Board shall be six years; except that (1)(A) the members first appointed under clause (1) of subsection (b) of this section shall serve as designated by the President, one for a term of two years, two for a term of four years, and one for a term of six years, and (B) the members first appointed under clause (2) of subsection (b) of this section shall serve as jointly designated by the President pro tempore of the Senate and the Speaker of the House of Representatives, two for terms of two years, four for terms of four years, and two for terms of six years; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term to which his precedessor was appointed shall be appointed for the remainder of such term. Members appointed by the President under clause (1) of subsection (b) of this section shall serve only during the time they are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts.

[*See main edition for text of* (*d*) *to* (*g*)]

(As amended Pub. L. 95-259, § 2, Apr. 17, 1978, 92 Stat. 196.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-259 added provision limiting the time of service of members appointed by the President to the time they are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts.

§ 2107. Authorization of appropriations

There are authorized to be appropriated to the Center to carry out the provisions of this chapter $133,500 for the fiscal year 1976 and for the period from July 1 through September 30, 1976, $295,000 for the fiscal year 1977, $349,000 for the fiscal year 1978[1] $685,000 for the fiscal year ending September 30, 1979, $1,065,000 for the fiscal year ending September 30, 1980, and $1,355,000 for the fiscal year ending September 30, 1981.

(As amended Pub. L. 95-259, § 1, Apr. 17, 1978, 92 Stat. 196.)

AMENDMENTS

1978—Pub. L. 95-259 added provisions for the appropriation of $685,000, $1,065,000 and $1,355,000 for the fiscal years ending Sept. 30, 1979, 1980 and 1981, respectively.

CHAPTER 44—VOCATIONAL EDUCATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1135c-1, 1205, 1211b, 1211c, 2563, 3223, 3286, 3441 of this title; title 29 sections 721, 844, 929; title 42 section 3188a.

PART A—STATE VOCATIONAL EDUCATION PROGRAMS

SUBPART 1—GENERAL PROVISIONS

§ 2302. Authorization of appropriations

(a) There are authorized to be appropriated $880,000,000 for fiscal year 1978, $1,030,000,000 for fiscal year 1979, $1,180,000,000 for fiscal year 1980, $1,325,000,000 for fiscal year 1981, and $1,485,000,000 for fiscal year 1982, for the purpose of carrying out subparts 2 and 3 of this part.

[*See main edition for text of* (*b*) *and* (*c*)]

(d) There are also authorized to be appropriated $25,000,000 for fiscal year 1978 and for each fiscal year ending prior to October 1, 1982, for the purpose of assisting States in—

(1) preparing the five-year plans required under section 2307 of this title;

(2) preparing the annual program plans and accountability reports, including the collection of necessary data, required to be submitted under section 2308 of this title; and

(3) conducting the evaluations required by section 2312 of this title.

(4) Repealed. Pub. L. 95-40, § 1(2), June 3, 1977, 91 Stat. 203.

(As amended Pub. L. 95-40, § 1(1), (2), June 3, 1977, 91 Stat. 203.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40, § 1(1), substituted "$1,325,000,000" for "$1,325,000" and "$1,485,000,000" for "$1,485,000".

---

[1] So in original. There probably should be a comma.

Subsec. (d)(4). Pub. L. 95-40, § 1(2), struck out par. (4) which had provided for assistance to States for State administration of vocational education programs assisted under this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2303, 2310, 2311, 2370, 2380, 2563 of this title.

§ 2303. Allotments among States

(a) Allotment formula; applicability to Indian tribes

(1)(A) Subject to the provisions of subsection (d) of this section, from the sums appropriated pursuant to section 2302(a) of this title, the Commissioner shall first reserve an amount equal to 5 per centum of such sums. From the amount so reserved, the Commissioner shall transfer an amount, not to be less than $3,000,000 but not to exceed $5,000,000 in any fiscal year, to the National Occupational Information Coordinating Committee established pursuant to section 2391(b)(1) of this title and the remainder of the amount so reserved shall be used by the Commissioner for programs of national significance under subpart 2 of part B.

(B) [*See main edition for text of* (i) *and* (ii)]

(iii) The Commissioner is directed, upon the request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or under the Act of April 16, 1934 [25 U.S.C. 452 et seq.], to enter into a contract or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the purposes of this chapter, except that such contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act [25 U.S.C. 450f] and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934 [25 U.S.C. 455, 456, 457], which are relevant to the programs administered under this sentence. From any remaining funds reserved pursuant to division (i) of this subparagraph (B), the Commissioner is authorized to enter into an agreement with the Commissioner of the Bureau of Indian Affairs for the operation of vocational education programs authorized by this chapter in institutions serving Indians described in division (i) of this subparagraph (B), and the Secretary of the Interior is authorized to receive these funds for that purpose. Beginning in the fiscal year 1979, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subparagraph to pay a part of the costs of programs funded under this subparagraph. During each of the fiscal years covered by this subparagraph, the Bureau of Indian Affairs shall expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities. The Commissioner and the Commissioner of Indian Affairs shall jointly prepare a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subparagraph. Upon the completion of a joint plan for the expenditure of these funds and the evaluation of the programs, the Commissioner shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

[*See main edition for text of* (2); (b)]

(c) Allotment ratio

(1) The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), except that (i) the allotment ratio in no case shall be more than 0.60 or less than 0.40, and (ii) the allotment ratio for Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be 0.60.

[*See main edition for text of* (2) *to* (4); (d) *and* (e)]

(As amended Pub. L. 95-40, § 1(3), (4), June 3, 1977, 91 Stat. 203.)

AMENDMENTS

1977—Subsec. (a)(1)(A). Pub. L. 95-40, § 1(3), substituted "established pursuant to section 2391(b)(1) of this title" for "established pursuant to section 2391 of this title".

Subsec. (a)(1)(B)(iii). Pub. L. 95-40, § 1(4)(A), (B), substituted "any Indian tribe which is eligible to contract with the Secretary of the Interior" for "any Indian tribe which has contracted with the Secretary of the Interior", struck out provision that the Bureau of Indian Affairs be deemed to be a State board for purposes of this chapter, and added provisions that, beginning in the fiscal year 1979, the Bureau of Indian Affairs expend an amount equal to the amount made available under this subparagraph to pay a part of the costs of programs funded under this subparagraph, that during each of the fiscal years covered by this subparagraph, the Bureau of Indian Affairs expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities, that the Commissioner and the Commissioner of Indian Affairs jointly prepare a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subparagraph, and that, upon the completion of a joint plan for the expenditure of these funds and the evaluation of the programs, the Commissioner assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

Subsec. (c)(1)(B). Pub. L. 95-40, § 1(4)(C), inserted "the Northern Mariana Islands," following "the Virgin Islands," in two places.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2305, 2310, 2311, 2330, 2350, 2370, 2380, 2391, 2401, 2402, 2563 of this title.

§ 2304. State boards

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2309, 2330, 2420, 2421 of this title; title 29 section 929.

§ 2305. State advisory councils

(a) Establishment; membership

Any State which desires to participate in programs under this chapter for any fiscal year shall establish a State advisory council, which shall be appointed by the Governor or, in the case of States in which the members of the State board of education are elected (including election by the State legislature), by such board. Members of each State advisory council shall be appointed for terms of three years except that (1) in the case of the members appointed for fiscal year 1978, one-third of the membership shall be appointed for terms of one year each and one-third shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be for such terms as remain unexpired. Each State advisory council shall have as a majority of its members persons who are not educators or administrators in the field of education and shall include as members one or more individuals who—

[*See main edition for text of* (*1*) *to* (*19*)]

(20) are vocational education students who are not qualified for membership under any of the preceding clauses of this sentence.

Members of the State advisory council may not represent more than one of the above-specified categories. In appointing the State advisory council the Governor or the State board of education, as the case may be, shall insure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the State.

[*See main edition for text of* (*b*) *and* (*c*)]

(d) Functions and duties

[*See main edition for text of* (*1*) *to* (*3*)]

(4)(A) Each State advisory council shall identify, after consultation with the State Manpower Services Council, the vocational education and employment and training needs of the State and assess the extent to which vocational education, employment training, vocational rehabilitation, special education, and other programs assisted under this chapter and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the State Manpower Services Council, which comments shall be included in the annual report submitted by the State advisory council pursuant to this section and in the annual report submitted by the State council pursuant to section 817 of title 29.

[*See main edition for text of* (*e*)]

(f) Authorization of appropriations for grants to councils; amount of grants; expenditure of funds

(1) There are authorized to be appropriated $8,000,000 for fiscal year 1978, $8,500,000 for fiscal year 1979, $9,000,000 for fiscal year 1980, $10,000,000 for fiscal year 1981, and $10,000,000 for fiscal year 1982, for the purpose of making grants to State advisory councils from amounts allotted to such advisory councils in accordance with the method for allotment contained in section 2303(a)(2) of this title, to carry out the functions specified in this section. From the sums appropriated pursuant to this subsection, the Commissioner shall, subject to the provisions of the following sentence, make grants to State advisory councils to carry out the functions specified in this section, and shall pay to each State advisory council an amount equal to the reasonable amounts expended by it in carrying out its functions under this chapter in such fiscal year, except that no State advisory council shall receive an amount to exceed $200,000 or an amount less than $75,000. In the case of Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Commissioner may pay the State advisory council in each such jurisdiction an amount less than the minimum specified in the preceding sentence if he determines that the council can perform its functions with a lesser amount.

[*See main edition for text of* (*2*); (*g*)]

(As amended Pub. L. 95-40, § 1(5), (6), June 3, 1977, 91 Stat. 203.)

REFERENCES IN TEXT

The State Manpower Services Council established pursuant to section 817 of title 29, referred to in subsecs. (a)(15) and (d)(4)(B), was eliminated in the general amendment of the Comprehensive Employment and Training Act of 1973 by Pub. L. 95-524, Oct. 27, 1978, 92 Stat. 1912. For similar provisions, see section 820 of Title 29, Labor.

AMENDMENTS

1977—Subsec. (a)(20). Pub. L. 95-40, § 1(5)(A), substituted "clauses of this sentence" for "clauses of this paragraph".

Subsec. (d)(4)(A). Pub. L. 95-40, § 1(5)(B), inserted "special education," following "vocational rehabilitation,".

Subsec. (f)(1). Pub. L. 95-40, § 1(6), substituted "$10,000,000 for fiscal year 1982" for "$8,000,000 for fiscal year 1982", substituted "subject to the provisions of the following sentence, make grants to State advisory councils from amounts allotted to such advisory councils in accordance with the method for allotment contained in section 2303(a)(2) of this title," for "subject to the provisions of the following sentence, make grants to State advisory councils", and inserted "the Northern Mariana Islands," following "American Samoa,".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2306, 2308, 2312, 2392 of this title; title 29 sections 813, 820.

§ 2306. General application of State; submission through State Board; required assurances; applicability to other statutory requirements

(a) Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this chapter shall, through its State board, submit to, and maintain on file with, the Commissioner a general application providing assurances—

[*See main edition for text of* (*1*) *to* (*7*)]

(8) that funds received under this chapter will not be used for any program of vocational education (except personnel training programs under section 2355 of this title, renovation programs under subpart 4 of part B, and homemaking programs under subpart 5 of this part) which cannot be demonstrated to prepare students for employment, be necessary to prepare individuals for successful completion of such a program, or be of significant assistance to individuals enrolled in making an informed and meaningful occupational choice as an integral part of a program of orientation and preparation;

[*See main edition for text of* (*9*) *and* (*10*); (*b*)]

(As amended Pub. L. 95-40, § 1(7), June 3, 1977, 91 Stat. 204.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (a)(4)(C), is Pub. L. 92-203, Dec. 28, 1973, 87 Stat. 839, as amended, now known as the Comprehensive Employment and Training Act, which is classified generally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables.

AMENDMENTS

1977—Subsec. (a)(8). Pub. L. 95-40 inserted a closing parenthesis following "under subpart 5 of this part".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2307. Five-year State plan; required participation in formulation; public hearings; contents

(a)(1) Any State desiring to receive funds under this chapter shall submit to the Commissioner, during fiscal year 1977 and during each fifth fiscal year occurring thereafter, a State plan for vocational education for the five fiscal years succeeding each such fiscal year in which the plan is submitted. In formulating this plan, the State board shall involve the active participation of—

[*See main edition for text of* (*A*) *to* (*J*)]

This participation shall include at least four meetings during the planning year between representatives of the State board and representatives of all of these agencies, councils, and individuals, meeting as a group. The first of these meetings shall be before the plan is developed; the second meeting shall be to consider the first draft of the plan; the third meeting shall be to consider the draft of the plan rewritten to reflect the results of the second meeting; and the fourth meeting shall be to approve the final plan. If these agencies, councils, and individuals, and the State board are not able to agree upon the provisions of the State plan, the State board shall have the responsibility for reaching a final decision on those provisions; but the State board shall include in the plan (A) the recommendations rejected by the board, (B) the agency, council, or individual making each such recommendation, and (C) the reasons of the State board for rejecting these recommendations. Any agency or council described above which is dissatisfied with any final decision of the State board may appeal the board's decision to the Commissioner. In such a case the Commissioner shall afford such agency or council and the State board reasonable notice and opportunity for a hearing and shall determine whether the State board's decision is supported by substantial evidence, as shown in the State plan, and will best carry out the purposes of this chapter. Any agency or State board dissatisfied with a final action of the Commissioner under this subsection may appeal to the United States Court of Appeals for the circuit in which the State is located in accordance with the procedure specified in section 1232c(d)(2) of this title.

[*See main edition for text of* (*2*); (*b*)]

(As amended Pub. L. 95-40, § 1(8), June 3, 1977, 91 Stat. 204.)

REFERENCES IN TEXT

The State Manpower Services Council established pursuant to section 817 of title 29, referred to in subsec. (a)(1)(H), was eliminated in the general amendment of the Comprehensive Employment and Training Act of 1973 by Pub. L. 95-524, Oct. 27, 1978, 92 Stat. 1912. For similar provisions, see section 820 of Title 29, Labor.

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (b)(5), is Pub. L. 92-203, Dec. 28, 1973, 87 Stat. 839, as amended, now known as the Comprehensive Employment and Training Act, which is classified generally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-40 inserted "in which the plan is submitted" following "five fiscal years succeeding each such fiscal year" in the provisions preceding subpar. (A), and, in the provisions following subpar. (J), capitalized the identifying letters for the clauses from "(a)" to "(A)", "(b)" to "(B)", and "(c)" to "(C)".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2302, 2304, 2305, 2306, 2308, 2309, 2330, 2350, 2443 of this title; title 29 section 844.

§ 2308. Annual program plans and accountability reports; required participation in formulation; public hearings; contents

[*See main edition for text of* (*a*)]

(b) The annual program plan and accountability report shall be submitted to the Commissioner by the July 1st preceding the beginning of the fiscal year for which the plan is to be effective. This plan and report shall contain:

(1) planning provisions which—

[*See main edition for text of* (*A*)]

(B)(i) set out explicitly how the State during that fiscal year will comply with the uses of Federal, State, and local funds proposed for that fiscal year in the five-year plan, including a description of these uses for State administration and in terms of the elements listed in clauses (2)(A)(i) through (2)(A)(iv) of section 2307 of this title, and describe how these uses of funds may differ from those proposed in the five-year plan and give the reasons for any such changes;

[*See main edition for text of* (*ii*), (*C*)]

(2) reporting provisions which—

[*See main edition for text of* (*A*)]

(B) show explicitly how funds available under this chapter have been used during that fiscal year, including a description of the uses of these funds for State administration and among the authorized uses of funds set out in sections 2330, 2350, 2370, and 2380 of this title, and including a description of the distribution of these funds among local educational agencies and other eligible recipients in conformity with the requirements contained in section 2306(a)(5) of this title, and give the results achieved with these funds, except that the Commissioner may modify this requirement pursuant to regulations in order to avoid any duplication of data-collection occurring under section 2391 of this title or under section 1232f of this title; and

[*See main edition for text of* (*C*)]

(As amended Pub. L. 95-40, § 1(15)(B), (C), June 3, 1977, 91 Stat. 205; Pub. L. 96-46, § 5(a), Aug. 6, 1979, 93 Stat. 342.)

AMENDMENTS

1979—Subsec. (b)(2)(B). Pub. L. 96-46 inserted ", except that the Commissioner may modify this requirement pursuant to regulations in order to avoid any duplication of data-collection occurring under section 2391 of this title or under section 1232f of this title" following "with these funds".

1977—Subsec. (b)(1)(B)(i). Pub. L. 95-40, § 1(15)(B), substituted "including a description of these uses for State administration and in terms of" for "including a description of these uses in terms of".

Subsec. (b)(2)(B). Pub. L. 95-40, § 1(15)(C), substituted "uses of these funds for State administration and among the authorized uses of funds" for "uses of these funds among the authorized uses of funds".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2302, 2304, 2305, 2306, 2309, 2330, 2350 of this title.

§ 2309. Submission of plans and judicial review

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2310. Priority of allotments of State funds for vocational education programs

(a) Handicapped persons

For each fiscal year, at least 10 per centum of each State's allotment under section 2303 of this title from appropriations made under section 2302(a) of this title shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvement and supportive services under subpart 3 for handicapped persons.

(b) Disadvantaged and limited English-speaking persons; stipends

(1) For each fiscal year, at least 20 per centum of each State's allotment under section 2303 of this title from appropriations made under section 2302(a) of this title shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvement and supportive services under subpart 3 for disadvantaged persons (other than handicapped persons), for persons who have limited English-speaking ability, and for providing stipends authorized under section 2330(b)(1)(G) of this title.

[*See main edition for text of* (*2*)]

(c) Persons enrolled in intermediate degree programs, in labor market, or unemployed

For each fiscal year, at least 15 per centum of each State's allotment under section 2303 of this title from appropriations made under section 2302(a) of this title shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvement and supportive services under subpart 3 for (1) persons who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward an associate or other degree, but which programs are not designed as baccalaureate or higher degree programs, and (2) persons who have already entered the labor market, or are unemployed, or who have completed or left high school and who are not described in paragraph (1).

[*See main edition for text of* (*d*)]

(e) Larger payments to local educational agencies and other eligible recipients which are otherwise financially unable to provide programs

Pursuant to regulations established by the Commissioner, a State may exceed the 50 per centum Federal share specified in subsections (a) and (b) of this section of the percentages set aside in subsections (a) and (b) of this section by making larger payments with such funds to local educational agencies and other eligible recipients which are otherwise financially unable to provide such programs.

(As amended Pub. L. 95-40, § 1(9), (10), June 3, 1977, 91 Stat. 204; Pub. L. 96-46, § 5(b), Aug. 6, 1979, 93 Stat. 342.)

Amendments

1979—Subsec. (e). Pub. L. 96-46 added subsec. (e).

1977—Subsec. (a). Pub. L. 95-40, § 1(9), substituted "section 2303 of this title from appropriations made under section 2302(a) of this title shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvements and supportive services under subpart 3 for handicapped persons" for "section 2303 of this title shall be used to pay 50 per centum of the cost of vocational education for handicapped persons".

Subsec. (b)(1). Pub. L. 95-40, § 1(9), substituted "section 2303 of this title from appropriations made under section 2302(a) of this title shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvements and supportive services under subpart 3" for "section 2303 of this title shall be used to pay 50 per centum of the cost of vocational education".

Subsec. (c). Pub. L. 95-40, § 1(10), substituted "section 2303 of this title from appropriations made under section 2302(a) of this title shall be used to pay up to 50 per centum of the cost of programs, services, and activities under subpart 2 and of program improvement and supportive services under subpart 3 for" for "section 2303 of this title shall be used to pay 50 per centum of the cost of vocational education for".

Effective Date of 1979 Amendment

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2311. Payments to States

(a)(1) The Commissioner shall pay, from the amount available to each State for grants under this part (except subpart 5) to eligible recipients, an amount not to exceed—

[*See main edition for text of* (*A*)]

(B) 50 per centum of the cost of programs, services, and activities under subpart 2 and program improvement and supportive services under subpart 3 for persons with special needs described in sections 2310(a), (b), and (c) of this title;

(C) a part of the costs of supervision and administration of vocational education programs by an eligible recipient, except that such payment shall not exceed (i) a percentage of such costs equal to the percentage of the total costs of the vocational education program of such eligible recipient paid for from this section, or (ii) 50 per centum of such costs if the non-Federal share of such costs is paid by the State from appropriations for such purpose; and

(D) 100 per centum of the cost of vocational education programs provided in accordance with sections 2332(f), 2352(b), and 2370(b)(2) of this title;

except that in the case of the Trust Territory of the Pacific Islands, the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa, such amount shall be equal to 100 per centum of such expenditures.

(2)(A) In addition, the Commissioner shall pay, from each State's allotment under section 2303 of this title from appropriations made under section 2302(a) of this title, an amount not to exceed the Federal share of the cost of State administration of such plans.

(B) For the purpose of this paragraph, the Federal share for any fiscal year shall be 50 per centum, except that (1) for fiscal year 1978 it shall be 80 per centum and for fiscal year 1979 it shall be 60 per centum, and (2) whenever the Commissioner determines in exceptional circumstances that for the latest fiscal year for which reliable data is available preceding fiscal year 1978 State and local expenditures for vocational education in a State exceed ten times the Federal expenditure for vocational education in that State, and that the State has an appropriate, economic, and efficient State administration of the program, the Commissioner shall set the Federal share for fiscal year 1978 for that State in excess of the Federal share specified in clause (1), but not to exceed 100 per centum.

(3) In addition, the Commissioner shall pay, from the amount available to each State from the amount appropriated under section 2302(d) of this title, an amount not to exceed 100 per centum of the cost of carrying out the purposes described in such section 2302(d) of this title.

[*See main edition for text of* (*b*)]

(As amended Pub. L. 95-40, § 1(11)-(15)(A), (D), (16)(A), June 3, 1977, 91 Stat. 204, 205.)

Amendments

1977—Subsec. (a)(1). Pub. L. 95-40, § 1(11)-(14), substituted "an amount not to exceed" for "an amount equal to" in the provisions preceding subpar. (A), substituted "sections" for "section" and "programs, services, and activities under subpart 2 and program improvement and supportive services under subpart 3" for "vocational education programs" in subpar. (B), added subpar. (C), redesignated former subpar. (C) as (D), substituted "provided in accordance with sections 2332(f), 2352(b), and 2370(b)(2) of this title" for "described in sections 2332(f), 2353(b), and 2370 of this title" in subpar. (D) as so redesignated, and, in the provisions following subpar. (D), inserted ", the Northern Mariana Islands, Guam, the Virgin Islands," following "Trust Territory of the Pacific Islands".

Subsec. (a)(2)(A). Pub. L. 95-40, § 1(15)(A), substituted "from each State's allotment under section 2303 of this title from appropriations made under section 2302(a) of this title, an amount not to exceed the Federal share of the cost of State administration of such plans" for "from the amount available to each State for administration of State plans appropriated under section 2302(d) of this title, an amount equal to the Federal share of the cost of administration of such plan".

Subsec. (a)(2)(B). Pub. L. 95-40, § 1(16)(A), substituted "for the latest fiscal year for which reliable data is available preceding fiscal year 1978" for "for the fiscal year preceding fiscal year 1978".

Subsec. (a)(3). Pub. L. 95-40, § 1(1)(15)(D), added par. (3).

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2330, 2350, 2380 of this title.

§ 2312. Evaluations of vocational education programs

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 2—BASIC GRANT

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 2302, 2303, 2304, 2307, 2310, 2311 of this title.

§ 2330. Authorization of grants; uses of funds

(a) From the sums made available for grants under this subpart pursuant to section 2303 of this title, the Commissioner is authorized to make grants to States to assist them in conducting vocational education programs and other programs, services, and activities operated in accordance with the requirements of this subpart.

(b)(1) Grants to States under this subpart may be used, in accordance with five-year State plans and annual program plans approved pursuant to section 2309 of this title, for the following purposes:

[*See main edition for text of* (*A*) *to* (*K*)]

(L) vocational education for—

[*See main edition for text of* (*i*) *to* (*iii*)]

(iv) women who are now in jobs which have been traditionally considered jobs for females and who wish to seek employment in job areas which have not been traditionally considered for job areas for females, and men who are now in jobs which have been traditionally considered jobs for males and who wish to seek employment in job areas which have not been traditionally considered job areas for males;

(M) construction and operation of residential vocational schools as described in section 2334 of this title;

(N) provision of vocational training through arrangements with private vocational training institutions where such private institutions can make a significant contribution to attaining the objectives of the State plan, and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions; and

(O) subject to the provisions of section 2311 of this title, the costs of supervision and administration of vocational education programs by eligible recipients, and State administration of the five-year plan submitted pursuant to section 2307 of this title and of the annual program plan submitted pursuant to section 2308 of this title, except that not more than 80 per centum of the amount of payments determined under section 2311 of this title for such purposes shall be made from grants under this subpart.

[*See main edition for text of* (*2*)]

(As amended Pub. L. 95-40, § 1(16)(B), (17)(A), June 3, 1977, 91 Stat. 205.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40, § 1(16)(B), inserted "and other programs, services, and activities operated" following "vocational education programs".

Subsec. (b)(1). Pub. L. 95-40, § 1(17)(A), added subpars. (N) and (O).

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2331. Work study programs

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2332. Cooperative vocational education programs; requirements

Funds available to the States under section 2330 of this title may be used for establishing or expanding cooperative vocational education programs through local educational agencies with the participation of public and private employers. Such programs shall include provisions assuring that—

[*See main edition for text of* (*a*) *to* (*f*)]

(g) Federal funds made available under this section to accommodate students in nonprofit private schools will not be commingled with State or local funds; and

[*See main edition for text of* (*h*)]

(As amended Pub. L. 95-40, § 1(17)(B), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (g). Pub. L. 95-40 substituted "made available under this section to accommodate students in nonprofit private schools" for "used for purposes of this section".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 3—PROGRAM IMPROVEMENT AND SUPPORTIVE SERVICES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 2302, 2303, 2310, 2311 of this title.

§ 2350. Authorization of grants; uses of funds

[*See main edition for text of* (*a*)]

(b) Grants to States under this subpart may be used, in accordance with five-year State plans, and annual program plans approved pursuant to section 2309 of this title, for the following purposes:

[*See main edition for text of* (*1*) *to* (*4*)]

(5) provision of pre-service and in-service training as described in section 2355 of this title;

(6) grants to overcome sex bias as described in section 2356 of this title; and

(7) subject to the provisions of section 2311 of this title, the costs of supervision and administration of vocational education programs by eligible recipients, and State administration of the five-year plan submitted pursuant to section 2307 of this title and of the annual program plan submitted pursuant to section 2308 of this title, except that not more than 20 per centum of the amount of payments determined under section 2311 of this title for such purposes shall be made from grants under this subpart.

(As amended Pub. L. 95-40, § 1(17)(C), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (b)(7). Pub. L. 95-40 added par. (7).

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2351. Research coordination units; contracts covering program improvement

(a) Funds available to the States under section 2350(a) of this title may be used for support of State research coordinating units and for contracts by those units pursuant to comprehensive plans of program improvement involving—

[*See main edition for text of* (*1*) *to* (*5*); (*b*)]

(As amended Pub. L. 95-40, § 1(18)(A), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40 substituted "coordinating" for "coordination" in the provisions preceding par. (1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2350, 2401 of this title.

§ 2352. Exemplary and innovative programs

(a) Supportive contracts

Funds available to the States under section 2350(a) of this title may be used for contracts by State research coordinating units pursuant to comprehensive plans of program improvement for the support of exemplary and innovative programs, including—

[*See main edition for text of* (*1*) *to* (*5*)]

(b) Contract priorities

Every contract made by a State for the purpose of funding exemplary and innovative projects shall give priority to programs and projects designed to reduce sex stereotyping in vocational education and shall, to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or project involved is to meet, provide for the participation of such students; and such contract shall also provide that the Federal funds made available under this section to accommodate students in nonprofit private schools will not be commingled with State or local funds.

[*See main edition for text of* (*c*)]

(As amended Pub. L. 95-40, § 1(18)(B), (C), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40, § 1(18)(B), substituted "contracts by State research coordinating units pursuant to comprehensive plans of program improvement for the support of" for "contracts, as part of the comprehensive plans of program improvement mentioned in section 2351(a) of this title, for the support of" in the provisions preceding par. (1).

Subsec. (b). Pub. L. 95-40, § 1(18)(C), inserted "made available under this section to accommodate students in nonprofit private schools" following "Federal funds".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2311, 2350, 2401 of this title.

§ 2353. Curriculum development projects

(a) Funds available to the States under section 2350(a) of this title may be used for contracts by State research coordinating units pursuant to comprehensive plans of program improvement for the support of curriculum development projects, including—

[*See main edition for text of* (*1*) *and* (*2*); (*b*)]

(As amended Pub. L. 95-40, § 1(19), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40 inserted "by State research coordinating units pursuant to comprehensive plans of program improvement" following "may be used for contracts" in the provisions preceding par. (1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2350, 2401 of this title.

§ 2354. Vocational guidance and counseling

(a) Not less than 20 per centum of the funds available to the States under section 2350(a) of this title shall be used to support programs for vocational development guidance and counseling programs and services which, subject to the provisions of subsection (b) of this section, shall include one or more of the following activities—

[*See main edition for text of* (*1*) *to* (*8*); (*b*)]

(As amended Pub. L. 95-40, § 1(20), June 3, 1977, 91 Stat. 206.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-40 substituted "shall include one or more of the following activities" for "shall include" in the provisions preceding par. (1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2350, 2401 of this title; title 29 section 879.

§ 2355. Vocational education personnel training

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 4—SPECIAL PROGRAMS FOR THE DISADVANTAGED

§ 2370. Grants; limitation

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 5—CONSUMER AND HOMEMAKING EDUCATION

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 2302, 2306, 2311, 2563 of this title.

§ 2380. Consumer and homemaking programs

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART B—NATIONAL PROGRAMS

SUBPART 1—GENERAL PROVISIONS

§ 2390. Bureau of Occupational and Adult Education; establishment; functions; appointment of Deputy Commissioner; assignment of additional personnel

[*See main edition for text of* (*a*)]

(b)(1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner.

[*See main edition for text of* (*2*) *and* (*3*)]

(As amended Pub. L. 96-88, title V, § 508(*l*)(2), Oct. 17, 1979, 93 Stat. 694.)

AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96-88 struck out provision authorizing compensation of the Deputy Commissioner at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-88 effective 180 days after the first Secretary takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

ABOLISHED POSITIONS DEEMED TRANSFERRED

Positions abolished as a consequence of the amendments made by section 508(*l*) of Pub. L. 96-88 are deemed to be permanent positions transferred pursuant to title V of Pub. L. 96-88, see section 508(*l*)(4) of Pub. L. 96-88, set out as a note under section 1102 of this title.

§ 2391. Vocational education data and occupational information data systems; development; establishment of National Occupational Information Coordinating Committee

(a)(1) The Commissioner and the Administrator of the National Center for Education Statistics shall, by September 30, 1977, jointly develop information elements and uniform definitions for a national vocational education data reporting and accounting system. This system shall include information resulting from the evaluations required to be conducted by section 2312(b) of this title (as such section will be in effect on October 1, 1977) and other information on vocational—

[*See main edition for text of* (*A*) *to* (*F*); (*2*)]

(3)(A) After the completion of the development of these information elements and uniform definitions pursuant to paragraph (1), the Administrator shall immediately begin to design, implement, and operate this information system which shall be in full operation for the fiscal year beginning October 1, 1978.

[*See main edition for text of* (*B*); (*4*)]

(b)(1) There is established a National Occupational Information Coordinating Committee which shall consist of the Commissioner, the Administrator, the Commissioner of Labor Statistics, and the Assistant Secretary for Employment and Training. This Committee, with funds available to it under section 2303(a) of this title (as such section will be in effect on October 12, 1976 and on October 1, 1977), shall—

[*See main edition for text of* (*A*)]

(B) develop and implement, by September 30, 1978, an occupational information system to meet the common occupational information needs of vocational education programs and employment and training programs at the national, State, and local levels, which system shall include data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and standardized occupational classifications; and

[*See main edition for text of* (*C*); (*2*)]

(As amended Pub. L. 95-40, § 1(21)-(23), June 3, 1977, 91 Stat. 206.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in text, is Pub. L. 92-203, Dec. 28, 1973, 87 Stat. 839, as amended, now known as the Comprehensive Employment and Training Act, which is classified generally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-40, § 1(21), substituted "section 2312(b) of this title" for "section 2312 of this title" in the provisions preceding subpar. (A).

Subsec. (a)(3)(A). Pub. L. 95-40, § 1(22), substituted "October 1, 1978" for "October 1, 1977".

Subsec. (b)(1). Pub. L. 95-40, § 1(23), substituted "(as such section will be in effect on October 12, 1976, and on October 1, 1977)" for "(as such section will be in effect on October 1, 1977)" in the provisions preceding subpar. (A) and substituted "September 30, 1978" for "September 30, 1977" in subpar. (B).

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2303, 2307, 2308, 2309 of this title; title 29 sections 815, 822, 883.

§ 2392. National Advisory Council on Vocational Education

(a) [*See main edition for introductory par. and* (*1*) *to* (*7*)]

(8) experienced in the education and training of handicapped persons and of persons of limited English-speaking ability (as defined in section 3223(a) of this title);

[*See main edition for text of* (*9*) *to* (*12*) *and concluding par.*]

(b) Functions and duties

The National Advisory Council shall—

[*See main edition for text of* (*1*) *to* (*3*)]

(4)(A) identify, after consultation with the National Commission for Manpower Policy, the vocational education and employment and training needs of the Nation and assess the extent to which vocational education, employment training, vocational rehabilitation, special education, and other programs under this chapter and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the National Commission, which comments shall be included in one of the reports submitted by the National Advisory Council pursuant to this section and in one of the reports submitted by the National Commission pursuant to section 505 of the Comprehensive Employment and Training Act of 1973 [29 U.S.C. 955];

[*See main edition for text of* (*5*) *to* (*7*)]

(c) Authorization of appropriations

There are authorized to be appropriated $450,000 for the fiscal year ending September 30, 1978, $475,000 for the fiscal year ending September 30, 1979, and $500,000 for each of the fiscal years ending prior to September 30, 1982 for the purposes of this subsection. The Council is authorized to use the funds appropriated pursuant to the preceding sentence to carry out its functions as set forth in this section and to engage such technical assistance as may be required to assist it in performing these functions. The National Council may accept gifts if the acceptance of such gifts will better enable it to carry out its functions under this section.

(As amended Pub. L. 95-40, § 1(24), June 3, 1977, 91 Stat. 206.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in subsecs. (a)(4) and (b)(4)(B), is Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, as amended now known as the Comprehensive Employment and Training Act. Title V of the Act of 1973, is classified generally to subchapter V (§ 951 et seq.) of chapter 17 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29, and Tables volume.

The National Commission for Manpower Policy, referred to in subsecs. (a)(4) and (b)(4)(B), was replaced by the National Commission for Employment Policy, pursuant to the amendments made by Pub. L. 95-524, Oct. 27, 1978, 92 Stat. 1912.

CODIFICATION

In subsec. (a)(8), "section 3223(a) of this title" was in the original "section 703(a) of the Elementary and Secondary Education Act of 1965". Prior to the general amendment of title VII of that Act by Pub. L. 95-561, title VII, § 701, Nov. 1, 1979, 92 Stat. 2268, such section 703(a) was classified to section 880b-1 of this title.

AMENDMENTS

1977—Subsec. (b)(4)(A). Pub. L. 95-40, § 1(24)(A), inserted "special education," following "vocational rehabilitation,".

Subsec. (c). Pub. L. 95-40, § 1(24)(B), substituted "subsection" for "paragraph" and added provision authorizing the National Council to accept gifts if the acceptance of the gifts better enables it to carry out its function.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2303 of this title; title 29 section 952, 953.

SUBPART 2—PROGRAMS OF NATIONAL SIGNIFICANCE

§§ 2401, 2402

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 3—BILINGUAL VOCATIONAL TRAINING

§ 2412. Duties of Commissioner and Secretary of Labor; promulgation of regulations and guidelines

REFERENCES IN TEXT

Section 871(b) of title 29, referred to in subsec. (b), was revised in the general amendment of the Comprehensive Employment and Training Act of 1973 by Pub. L. 95-524, Oct. 27, 1978, 92 Stat. 1912, and the provisions thereof are now covered by section 871(b)(3) of Title 29, Labor.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2414. Authorization of grants for bilingual vocational education

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2415. Use of Federal funds for vocational bilingual training programs and training allowances for participants

REFERENCES IN TEXT

Section 821 of title 29, referred to in par. (3), was revised in the general amendment of the Comprehensive Employment and Training Act of 1973 by Pub. L. 95-524, Oct. 27, 1978, 92 Stat. 1912, and the provisions thereof are now covered by section 826 of Title 29, Labor.

§ 2416. Authorization of grants for instructor training programs

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2418. Authorization of grants for development of instructional materials, methods, and techniques

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 2420, 2421

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 4—EMERGENCY ASSISTANCE FOR REMODELING AND RENOVATION OF VOCATIONAL EDUCATION FACILITIES

§ 2441. Statement of purpose

It is the purpose of this subpart to provide emergency assistance, for a limited period of time, to local educational agencies in urban and rural areas which are unable to provide vocational education designed to meet today's manpower needs due to the age of their vocational education facilities or the obsolete nature of the equipment used for vocational training, in order to assist such agencies in the modernization of facilities and equipment and the conversion of academic facilities necessary to assure that such facilities will be able to offer vocational eductation[1] programs which give reasonable promise of of[1] employment, including the remodeling and renovation of such facilities to make the facilities comply with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 [42 U.S.C. 4151 et seq.].

(As amended Pub. L. 95-40, § 1(25), June 3, 1977, 91 Stat. 207.)

REFERENCES IN TEXT

The Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, referred to in text, is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§ 4151 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

---

[1] So in original.

AMENDMENTS

1977—Pub. L. 95-40 substituted "subpart" for "part" and "Act of August 12, 1968" for "Act of August 2, 1968".

§ 2442. Authorization of appropriations

There are authorized to be appropriated $25,000,000 for fiscal year 1978, $50,000,000 for fiscal year 1979, $75,000,000 for fiscal year 1980, and $100,000,000 for fiscal year 1981, to carry out the purpose of this subpart.

(As amended Pub. L. 95-40, § 1(25), June 3, 1977, 91 Stat. 207.)

AMENDMENTS

1977—Pub. L. 95-40 substituted "subpart" for "part".

§§ 2443, 2444

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART C—DEFINITIONS

§ 2461. Definitions

As used in this chapter—

[*See main edition for text of* (*1*) *to* (*6*)]

(7) The term "handicapped", when applied to persons, means persons who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons, or persons with specific learning disabilities, who by reason thereof require special education and related services, and who, because of their handicapping condition, cannot succeed in the regular vocational education program without special education assistance or who require a modified vocational education program.

(8) The term "State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

[*See main edition for text of* (*9*) *to* (*14*)]

(15) The term "industrial arts education programs" means those education programs (A) which pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, including learning experiences involving activities such as experimenting, designing, constructing, evaluating, and using tools, machines, materials, and processes and (B) which assist individuals in the making of informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs.

[*See main edition for text of* (*16*) *to* (*19*)]

(20) The term "administration" means activities of a State necessary for the proper and efficient performance of its duties under this chapter, including supervision, but not including ancillary services.

(21) The term "private vocational training institution" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (A) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (B) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (C) has been in existence for two years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subsection; and (D) is accredited (i) by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this clause, or (ii) if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Commissioner pursuant to this clause, or (iii) if the Commissioner determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards. For the purpose of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

(As amended Pub. L. 95-40, § 1(26), (27), June 3, 1977, 91 Stat. 207.)

AMENDMENTS

1977—Par. (7). Pub. L. 95-40, § 1(26)(A), substituted "orthopedically impaired" for "crippled" and added reference to persons with specific learning disabilities.

Par. (8). Pub. L. 95-40, § 1(26)(B), inserted "the Northern Mariana Islands," following "American Samoa,".

Par. (15). Pub. L. 95-40, § 1(27)(A), substituted "designing" for "designating".

Par. (20). Pub. L. 95-40, § 1(27)(B), substituted "The term" for "For purposes of this chapter, the term".

Par. (21). Pub. L. 95-40, § 1(27)(C), added par. (21).

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2332, 2370 of this title; title 29 section 802.

CHAPTER 45—CAREER EDUCATION AND CAREER DEVELOPMENT

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

Sec.
2566. Hubert H. Humphrey Institute of Public Affairs; grants for development [New].
2567. Everett McKinley Dirksen Congressional Leadership Research Center; grants for development [New].
2568. Payments to Humphrey Institute and Dirksen Center; procedures applicable [New].
2569. Authorization of appropriations for Humphrey Institute and Dirksen Center [New].
    (a) Maximum amount for Institute.
    (b) Maximum amount for Center.
    (c) Availability of funds.

SUBCHAPTER I—CAREER EDUCATION AND DEVELOPMENT PROGRAMS AND ACTIVITIES

§ 2502. Funding requirements

[*See main edition for text of* (*a*)]

(b) Availability of amounts appropriated; allotments to States, etc.

[*See main edition for text of* (*1*)]

(2) From the remainder of the sums appropriated under this subchapter, the Commissioner shall reserve such amount, not to exceed 1 per centum thereof, as he may determine necessary and shall allot such amount among the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, according to their relative need for assistance under this subchapter.

(3) [*See main edition for text of* (*A*)]

(B) For purposes of this paragraph, the term "State" means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

[*See main edition for text of* (*c*)]

(As amended Pub. L. 95-207, § 16, Dec. 13, 1977, 91 Stat. 1474.)

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-207, § 16(1), substituted "1 per centum" for "3 per centum" and struck out "the Commonwealth of Puerto Rico," following "shall allot such amounts among".

Subsec. (b)(3)(B). Pub. L. 95-207, § 16(2), substituted ", the District of Columbia, and the Commonwealth of Puerto Rico" for "and the District of Columbia".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2503. Administration by Office of Career Education

The provisions of this subchapter shall be carried out by the Commissioner through the Office of Career Education established pursuant to section 2612a(c) of this title.

(Pub. L. 94-482, title III, § 333, Oct. 12, 1976, 90 Stat. 2222.)

CODIFICATION

This section is set out in this supplement to change the reference in text to section 2612a(c) of this title to reflect the transfer of section 1865 of this title to section 2612a of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§§ 2504, 2505

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2506. Functions of National Advisory Council for Career Education

The National Advisory Council for Career Education established pursuant to section 2612a(g) of this title shall, in addition to its duties under that section, advise the Commissioner with respect to the implementation of this subchapter.

(Pub. L. 94-482, title III, § 336, Oct. 12, 1976, 90 Stat. 2224.)

CODIFICATION

This section is set out in this supplement to change the reference in text to section 2612a(g) of this title to reflect the transfer of section 1865 of this title to section 2612a of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER II—GUIDANCE AND COUNSELING ACTIVITIES AND PROGRAMS

§ 2532. Authorization of appropriations; limitations; allotments to States, etc.; amounts; reallotments

(a) There are authorized to be appropriated $20,000,000 for each of the fiscal years 1978 through 1983, to carry out the provisions of this subchapter.

[*See main edition for text of* (*b*)]

(As amended Pub. L. 95-561, title XIII, § 1351, Nov. 1, 1978, 92 Stat. 2364.)

REFERENCES IN TEXT

Title IV of the Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(2), which was formerly classified to subchapter I (§ 1801 et seq.) of chapter 40 of this title, was amended generally by Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2229, and reclassified to subchapter IV (§ 3081 et seq.) of chapter 47 of this title. Section 401(a) and part B of title IV of the Elementary and Secondary Education

Act of 1965 are now classified to section 3081(a) and sections 3101 and 3102, respectively, of this title.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561 substituted "fiscal years 1978 through 1983" for "fiscal years 1978 and 1979".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2533. Administration by unit in Education Division; establishment; functions; reservation of amount for implementation

(a) The Commissioner shall establish or designate an administrative unit within the Education Division for purposes of—

(1) carrying out provisions of this subchapter;

[*See main edition for text of* (*2*) *and* (*3*); (*b*)]

(As amended Pub. L. 95-43, § 1(b)(8), June 15, 1977, 91 Stat. 219.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-43 substituted "this subchapter" for "this section".

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2534. Contracts and grants to States, educational agencies, etc., for implementation of programs

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§ 2561. High School Equivalency Program and College Assistance Migrant Program; reporting and funding requirements

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2562. Omitted

CODIFICATION

Section, Pub. L. 94-482, title V, § 522, Oct. 12, 1976, 90 Stat. 2238, S.Res. 4, 1977, requiring the Secretary of Health, Education, and Welfare to conduct a study of the need to reorganize the Education Division and transmit a report to the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives, no later than June 30, 1977, was omitted from the Code as obsolete.

§ 2563. Vocational education program studies; areas and scope of studies

[*See main edition for text of* (*a*)]

(b) [*See main edition for text of* (*1*)]

(2) The Institute shall make an interim report to the President and to the Congress not later than September 30, 1980, and shall make a final report to the President and to the Congress no later than September 30, 1981, on the result of its study conducted under this section. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside of the Institute before their transmittal to the Congress, but the President and the Commissioner may make to the Congress such recommendations with respect to the content of the reports as each may deem appropriate.

(3) Sums made available pursuant to section 102 of the Vocational Education Act of 1963 (as such Act is in effect on October 12, 1976) and sections 102 and 103 of the Vocational Education Act of 1963 [20 U.S.C. 2302, 2303] (as such Act is in effect on October 1, 1977) shall be available to carry out the administrative and direct cost requirements of the provisions of this subsection concerning the National Institute of Education. These funds shall not exceed $1,000,000 per year for each of the fiscal years ending prior to October 1, 1981. Ten per centum of the funds made available under this section shall be made available for purposes of carrying out the provisions of paragraph (1)(F).

[*See main edition for text of* (*4*)]

(As amended Pub. L. 95-40, § 1(30), (31)(A), June 3, 1977, 91 Stat. 208.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (b)(1), is Pub. L. 92-203, Dec. 28, 1973, 87 Stat. 839, as amended, now known as the Comprehensive Employment and Training Act, which is classified generally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables.

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95-40, § 1(30), changed the deadline for the interim report from Sept. 30, 1979, to Sept. 30, 1980, and the deadline for the final report from Sept. 30, 1980, to Sept. 30, 1981, and struck out provisions that had set an earlier deadline of Jan. 15, 1979, for the report required under par. (1)(F).

Subsec. (b)(3). Pub. L. 95-40, § 1(31)(A), substituted "administrative and direct cost requirements of the provisions of this subsection concerning the National Institute of Education" for "administrative and direct cost requirements of the provisions of this section" and substituted "October 1, 1981" for "October 1, 1979" in the provision setting out the fiscal years in which a $1,000,000 limit is placed on funds.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1(31)(B) of Pub. L. 95-40 provided that: "The amendments made by subparagraph (A) [amending subsec. (b)(3) of this section] shall take effect on and after October 1, 1977."

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2564. Departmental day care center facilities; establishment; fees and charges; equipment and operation by appropriated funds

CHANGE OF NAME

The Secretary and Department of Health, Education, and Welfare was redesignated the Secretary and Department of Health and Human Services by section 3508 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3477 of this title.

§ 2565. Wayne Morse Chair of Law and Politics

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2566. Hubert H. Humphrey Institute of Public Affairs; grants for development

In recognition of the public service of Senator Hubert H. Humphrey, the Commissioner of Education (hereafter in sections 2566 to 2569 of this title referred to as the "Commissioner") is authorized to make grants in accordance with the provisions of sections 2566 to 2569 of this title to assist in the development of the Hubert H. Humphrey Institute of Public Affairs, located at the University of Minnesota, Minneapolis-Saint Paul.

(Pub. L. 95-270, § 2(a), Apr. 27, 1978, 92 Stat. 220.)

EFFECTIVE DATE

Section 4(d) of Pub. L. 95-270 provided that: "This Act [which enacted sections 2566 to 2569 of this title and provisions set out as a note below] shall take effect October 1, 1978."

SHORT TITLE

Section 1 of Pub. L. 95-270 provided: "That this Act [which enacted sections 2566 to 2569 of this title and provisions set out as a note under this section] may be cited as the 'Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act'."

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2567, 2568, 2569 of this title.

§ 2567. Everett McKinley Dirksen Congressional Leadership Research Center; grants for development

In recognition of the public service of Senator Everett McKinley Dirksen, the Commissioner is authorized to make grants in accordance with the provisions of sections 2566 to 2569 of this title to assist in the development of the Everett McKinley Dirksen Congressional Leadership Research Center, located in Pekin, Illinois.

(Pub. L. 95-270, § 2(b), Apr. 27, 1978, 92 Stat. 220.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 4(d) of Pub. L. 95-270, set out as an Effective Date note under section 2566 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2566, 2568, 2569 of this title.

§ 2568. Payments to Humphrey Institute and Dirksen Center; procedures applicable

No payment may be made under sections 2566 to 2569 of this title except upon an application at such time, in such manner, and containing or accompanied by such information as the Commissioner may require.

(Pub. L. 95-270, § 3, Apr. 27, 1978, 92 Stat. 220.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 4(d) of Pub. L. 95-270, set out as an Effective Date note under section 2566 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2566, 2567, 2569 of this title.

§ 2569. Authorization of appropriations for Humphrey Institute and Dirksen Center

(a) Maximum amount for Institute

There are authorized to be appropriated such sums, not to exceed $5,000,000, as may be necessary to carry out the provisions of section 2566 of this title.

(b) Maximum amount for Center

There are authorized to be appropriated such sums, not to exceed $2,500,000, as may be necessary to carry out the provisions of section 2567 of this title.

(c) Availability of funds

Funds appropriated pursuant to sections 2566 to 2569 of this title shall remain available until expended.

(Pub. L. 95-270, § 4(a)-(c), Apr. 27, 1978, 92 Stat. 220.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 4(d) of Pub. L. 95-270, set out as an Effective Date note under section 2566 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2566, 2567, 2568 of this title.

CHAPTER 46—CAREER EDUCATION INCENTIVE [NEW]

Sec.
2601. Congressional findings.
2602. Congressional declaration of purpose.
2603. Authorization of appropriations.
  (a) Fiscal years 1979 through 1983.
  (b) Appropriations for immediately preceding fiscal years.
  (c) Time of appropriation; availability to States.
2604. Allotments.
  (a) Formula to determine each State's allotment; minimum allotment; reservation of remaining funds.
  (b) Reallotment; reduction of minimum allotment.
  (c) Staff employment in minimum allotment States.
2605. Applications; requisite assurances by States.
2606. State plans.
2607. Use of funds.
  (a) Costs payable.
  (b) State payments to local educational agencies for comprehensive programs.
  (c) Participation of private schools.
2608. Payments.
  (a) Payments to States upon compliance with program requirements; reduced proportions.
  (b) Reservation of funds by States; distribution of remainder.
  (c) Diminishing Federal share of specified programs.
  (d) Participation of private schools prohibited under State law or not provided for by State or local agencies.
2609. Model programs.
  (a) Grants.
  (b) Other career education model and State and local educational program plan grants.
2610. Postsecondary educational career demonstration projects.
  (a) Authorization of grants, contracts, or other arrangements.
  (b) Prerequisite findings.
  (c) Authorization of appropriations.
  (d) Other career education model and State and local educational program plan grants.
2611. Career education information.
  (a) Furnishing of information on Federal programs to interested parties.
  (b) Dissemination of information on exemplary career education programs to interested parties.
Sec.
2612. Administration.
  (a) Office of Career Education.
  (b) National Advisory Council on Career Education.
  (c) National Institute of Education.
  (d) Additional staff and resources.
2612a. Career education.
2613. Reports.
  (a) Annual State reports to Commissioner of Education.
  (b) Commissioner's analysis and recommendations to States.
  (c) Comprehensive review by Commissioner; report to Congress no later than September 30, 1982.
2614. Definitions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2612a, 3441 of this title; title 29 sections 909, 912.

§ 2601. Congressional findings

The Congress declares that—

(1) a major purpose of education is to prepare every individual for a career suitable to that individual's preference,

(2) career education should be an integral part of the Nation's educational process which serves as preparation for work,

(3) career education holds promise of improving the quality of education and opening career opportunities for all students by relating education to their life aspirations, and

(4) educational agencies and institutions (including agencies and institutions of elementary and secondary education, higher education, adult education, employment training and retraining, and vocational education) should make every effort to fulfill that purpose.

(Pub. L. 95-207, § 2, Dec. 13, 1977, 91 Stat. 1464.)

SHORT TITLE

Section 1 of Pub. L. 95-207 provided: "That this Act [enacting this chapter and amending sections 2502 and 2612a of this title] may be cited as the 'Career Education Incentive Act'."

§ 2602. Congressional declaration of purpose

In recognition of the prime importance of work in our society and in recognition of the role that the schools play in the lives of all Americans, it is the purpose of this chapter to assist States and local educational agencies and institutions of postsecondary education, including collaborative arrangements with the appropriate agencies and organizations, in making education as preparation for work, and as a means of relating work values to other life roles and choices (such as family life), a major goal of all who teach and all who learn by increasing the emphasis they place on career awareness, exploration, decisionmaking, and planning, and to do so in a manner which will promote equal opportunity in making career choices through the elimination of bias and stereotyping in such activities, including bias and stereotyping on account of race, sex, age, economic status, or handicap.

(Pub. L. 95-207, § 3, Dec. 13, 1977, 91 Stat. 1464.)

§ 2603. Authorization of appropriations

There are authorized to be appropriated $50,000,000 for fiscal year 1979, $100,000,000 for fiscal year 1980, $100,000,000 for fiscal year 1981, $50,000,000 for fiscal year 1982, and $25,000,000 for fiscal year 1983 to carry out the provisions of this chapter, other than section 2610 of this title.

(Pub. L. 95-207, § 4, Dec. 13, 1977, 91 Stat. 1464; Pub. L. 96-46, § 6, Aug. 6, 1979, 93 Stat. 343.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-46, § 6(1), substituted "There" for "(a) Subject to the provisions of subsections (b) and (c) of this section, there".

Subsec. (b). Pub. L. 96-46, § 6(2), struck out subsec. (b), which provided that no funds were to be authorized pursuant to subsec. (a) of this section for any fiscal year beginning after Sept. 30, 1979, unless an appropriation was made for the immediately preceding fiscal year.

Subsec. (c). Pub. L. 96-46, § 6(2), struck out subsec. (c), which provided that no funds were to be appropriated pursuant to subsec. (a) of this section for any fiscal year beginning after Sept. 30, 1979, unless such funds were appropriated in the fiscal year prior to the fiscal year in which such were to be obligated, and unless such funds were made available for expenditure to the States prior to the beginning of such fiscal year.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2604, 2605, 2606, 2608 of this title.

§ 2604. Allotments

(a) Formula to determine each State's allotment; minimum allotment; reservation of remaining funds

(1) From the funds appropriated pursuant to section 2603 of this title for each fiscal year which are not reserved under paragraph (2) of this subsection, the Commissioner shall allot to each State an amount which bears the same ratio to such funds as such State's population aged five to eighteen, inclusive, bears to the total population, aged five to eighteen, inclusive, of all the States, except that no State shall be allotted from such funds for each fiscal year an amount less than $125,000.

(2) From the remainder of the funds appropriated pursuant to section 2603 of this title for each fiscal year, the Commissioner may reserve—

(A) an amount not to exceed 5 per centum each year for the administration of this chapter and for making model program grants pursuant to section 2609 of this title,

(B) an amount not to exceed 1 per centum each year for the purpose of carrying out the information program pursuant to section 2611 of this title,

(C) an amount not to exceed one-half of one per centum each year for the purpose of carrying out a national evaluation of the effectiveness of programs assisted under this chapter in carrying out the purposes of this chapter, and

(D) an amount equal to 1 per centum for the purpose of making payments to the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands in furtherance of the purposes of this chapter.

(b) Reallotment; reduction of minimum allotment

(1) Any funds allotted to a State under paragraph (1) of subsection (a) of this section for which a State has not applied or for which a State application has not been approved shall be reallotted by ratably increasing the allocations of each of the States which have approved applications.

(2) If the sums appropriated for any fiscal year are not sufficient to make the allotments of the minimum amounts specified in paragraph (1) of subsection (a) of this section, such minimum amounts shall be ratably reduced. If additional sums become available during a fiscal year for which such allotments were reduced, such allotments shall be increased on the same basis as they were reduced.

(c) Staff employment in minimum allotment States

Notwithstanding any other provision of this chapter, any State which receives, in any fiscal year, the minimum allotment prescribed under paragraph (1) of subsection (a) of this section does not have to comply with the provisions of section 2605(6) of this title relating to staff employed at the State level.

(Pub. L. 95-207, § 5, Dec. 13, 1977, 91 Stat. 1465.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2609 of this title.

§ 2605. Applications; requisite assurances by States

Every State desiring to receive funds appropriated under section 2603 of this title for fiscal year 1979 shall submit to the Commissioner an application containing assurances that—

(1) the State educational agency will be the agency responsible for planning the use, and administering the expenditure, of funds received under this chapter, other than funds made available under sections 2609, 2610, and 2611 of this title;

(2) the State legislature and the Governor have been notified of the State's application for such funds;

(3)(A) the State will expend, from its own sources, for any fiscal year for which funds are received under this chapter, an amount equal to or exceeding the amount which such State expended for career education during the fiscal year preceding the fiscal year for which the determination is made;

(B) the State will pay from non-Federal sources the non-Federal share of the costs of carrying out the State plan for fiscal year 1980 and for each of the three succeeding fiscal years;

(4) the State will make every possible effort to integrate career education into the regular education programs offered in elementary and secondary schools in the State;

(5)(A) the State educational agency will require that programs of career education assisted under this chapter will be administered by State and local educational agencies in such a manner as to affect all instructional programs in elementary and secondary education, and will not be administered solely as a part of the vocational education program;

(B) the State educational agency will require that programs of career education will be coordinated by an individual having prior experience in the field of career education (who shall be designated as a State coordinator of career education);

(6) such agency will employ such staff as are necessary to provide for the administration of this chapter and programs of career education funded under this chapter, including a person or persons experienced with respect to problems of discrimination in the labor market and stereotyping affecting career education, including bias and stereotyping on account of race, sex, age, economic status, or handicap, and including at least one professional trained in guidance and counseling who shall work jointly in the office of the principal staff person responsible for such administration and coordination and in the office of the State educational agency responsible for guidance and counseling, if any such office exists;

(7) such agency will continuously review the plan submitted under section 2606 of this title and will submit such amendments thereto as may be deemed appropriate in response to such agency's experience with the program;

(8) the State educational agency will comply with the provisions of section 2608(b) of this title with respect to the distribution of funds to local educational agencies within the State;

(9) the State educational agency will not allocate payments under this chapter among local educational agencies within the State on the basis of per capita enrollment or through matching of local expenditures on a uniform percentage basis, or deny funds to any local educational agency if the applicable jurisdiction in which such agency is located is making a reasonable tax effort solely because such agency is unable to pay the non-Federal share of the costs of programs assisted under this chapter;

(10) not less than 15 per centum of that portion of a State's grant for any fiscal year which is not reserved pursuant to section 2608(b) of this title will be used for programs described in section 2607(a)(3)(B) of this title; and

(11) the funds received under this chapter will be used in accordance with the provisions of section 2607 of this title.

(Pub. L. 95-207, § 6, Dec. 13, 1977, 91 Stat. 1465.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2604, 2606, 2607, 2608, 2613 of this title.

§ 2606. State plans

Every State desiring to receive funds appropriated pursuant to section 2603 of this title shall submit to the Commissioner by July 1, 1979, a State plan which shall—

(1) set out explicitly the objectives the State will seek to achieve by the end of each of the fiscal years for which funds are made available under this chapter in implementing the goal of providing career education for students in elementary and secondary schools within the State, with special emphasis on overcoming sex bias and stereotyping, and set out the methods by which the State will seek each year to achieve such objectives with all resources available;

(2) describe the methods by which the funds received under this chapter will be used, in accordance with section 2607 of this title, to implement the overall objectives in each of the fiscal years for which funds are made available under this chapter;

(3) set forth policies and procedures which the State will follow to assure equal access of all students (including the handicapped and members of both sexes) to career education programs carried out under the State plan;

(4) provide adequate assurance that the requirements of section 2605 of this title will be met in each fiscal year after fiscal year 1979; and

(5) provide proposed criteria to the Commissioner for the evaluation of the extent to which the State will achieve the objectives set out in the State plan.

(Pub. L. 95-207, § 7, Dec. 13, 1977, 91 Stat. 1467.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2605, 2608 of this title.

§ 2607. Use of funds

(a) Costs payable

Subject to the provisions of sections 2608(b) and 2609 of this title, funds received under this chapter may be used only to pay the Federal share of the total costs of—

(1) employing such additional State educational agency personnel as may be required for the administration and coordination of programs assisted under this chapter;

(2) providing State leadership for career education, either directly or through arrangements with public agencies and private orga-

nizations (including institutions of higher education), in—

(A) conducting inservice institutes for educational personnel;

(B) training local career education coordinators;

(C) collecting, evaluating, and disseminating career education materials on an intrastate and interstate basis with special emphasis on overcoming sex bias and stereotyping;

(D) conducting statewide needs assessment and evaluation studies;

(E) conducting statewide career education leadership conferences;

(F) engaging in collaborative relationships with other agencies of State government and with public agencies and private organizations representing business, labor, industry and the professions and organizations representing the handicapped, minority groups, women, and older Americans; and

(G) promoting the adaptation of teacher-training curricula to the concept of career education by institutions of higher education located in the State;

(3) making payments to local educational agencies for comprehensive programs including—

(A) instilling career education concepts and approaches in the classroom;

(B) developing and implementing comprehensive career guidance, counseling, placement, and followup services utilizing counselors, teachers, parents, and community resource personnel;

(C) developing and implementing collaborative relationships with organizations representing the handicapped, minority groups, and women and with all other elements of the community, including the use of personnel from such organizations and the community as resource persons in schools and for student field trips into that community;

(D) developing and implementing work experiences for students whose primary purpose is career exploration, if such work experiences are related to existing or potential career opportunities and do not displace other workers who perform such work;

(E) employing coordinators of career education in local educational agencies or in combinations of such agencies (but not the individual school building level);

(F) training of local career education coordinators;

(G) providing inservice education for educational personnel, especially teachers, counselors, and school administrators, designed to help such personnel to understand career education, to acquire competencies in the field of career education and to acquaint such personnel with the changing work patterns of men and women, ways of overcoming sex stereotyping in career education, and ways of assisting women and men to broaden their career horizons;

(H) conducting institutes for members of boards of local educational agencies, community leaders, and parents concerning the nature and goals of career education;

(I) purchasing instructional materials and supplies for career education activities;

(J) establishing and operating community career education councils;

(K) establishing and operating career education resource centers serving both students and the general public;

(L) adopting, reviewing, and revising local plans for coordinating the implementation of the comprehensive program; and

(M) conducting needs assessments and evaluations; and

(4) reviewing and revising the State plan.

(b) State payments to local educational agencies for comprehensive programs

The State shall make payments to local educational agencies for the purposes described in paragraph (3) of subsection (a) of this section from funds received under this chapter upon applications approved by the State educational agency. Such payments shall, to the extent practicable, be made on an equitable basis in accordance with criteria established by the State educational agency, consistent with section 2605(9) of this title, having due regard for the special needs of local educational agencies serving areas of high incidence and prevalence of youth and adult unemployment, serving sparsely populated areas or serving relatively few students.

(c) Participation of private schools

(1) To the extent consistent with the number of children enrolled in private nonprofit elementary and secondary schools within the State, with respect to services described under paragraph (2) of subsection (a) of this section, and within the school district, with respect to payments made to a local educational agency for the purposes described in paragraph (3) of such subsection, after consultation with appropriate private school officials, provision shall be made for the effective participation on an equitable basis of such children and the teachers of such children in such services and in programs assisted with such payments.

(2)(A) The control of funds provided under this chapter and title to materials and equipment therewith shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

(B) The provisions of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter to accommodate students and teachers in nonprofit public schools shall not be commingled with State or local funds.

(Pub. L. 95-207, § 8, Dec. 13, 1977, 91 Stat. 1467.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2605, 2606, 2608, 2614 of this title.

§ 2608. Payments

(a) Payments to States upon compliance with program requirements; reduced proportions

(1) The Commissioner, upon receipt of an application of assurances for fiscal year 1979 which the Commissioner finds to be in compliance with section 2605 of this title, and upon finding the State to be in compliance with sections 2606 and 2607 of this title for fiscal years 1980 and 1981, shall pay to the State the amount which it is entitled to receive for each such year under this chapter.

(2) The Commissioner, upon finding the State to be in compliance with sections 2606 and 2607 of this title for fiscal years 1982 and 1983 by reviewing the report required to be submitted by the State under section 2613 of this title for fiscal years 1980 and 1981, respectively, shall pay to the State the amount which it is entitled to receive for each of the fiscal years 1982 and 1983 under this chapter reduced in proportion to the extent to which the Commissioner determines that such State has substantially failed to achieve the objectives for fiscal years 1980 and 1981 set forth in its State plan.

(b) Reservation of funds by States; distribution of remainder

Any State receiving funds appropriated under section 2603 of this chapter may reserve (1) not more than 10 per centum of such funds for State leadership purposes described in paragraph (2) of section 2607(a) of this title, and (2) not more than 10 per centum of such funds appropriated for the fiscal year 1979, and not more than 5 per centum of the funds appropriated for succeeding fiscal years, for the purposes described in paragraphs (1) and (4) of section 2607(a) of this title. The remainder of such funds shall be distributed by the State to local educational agencies within that State for the purposes described in paragraph (3) of section 2607(a) of this title.

(c) Diminishing Federal share of specified programs

(1) For the purposes of paying the cost of employing State career education coordinators and staff described in paragraph (1) of section 2607(a) of this title, the Federal share of the payments made under this chapter from a State's allotment shall be not more than 100 per centum for the fiscal year 1979, not more than 75 per centum for the fiscal year 1980 and not more than 50 per centum for the fiscal years 1981, 1982, and 1983.

(2) For the purposes described in paragraphs (2) and (3) of section 2607(a) of this title, the Federal share of the payments made under this chapter from a State's allotment shall be not more than 100 per centum for the fiscal years 1979 and 1980, not more than 75 per centum for the fiscal year 1981, not more than 50 per centum for the fiscal year 1982, and not more than 25 per centum for the fiscal year 1983.

(d) Participation of private schools prohibited under State law or not provided for by State or local agencies

(1) If a State is prohibited by law from providing for the participation in programs of children enrolled in private nonprofit elementary and secondary schools, as required by section 2607(c) of this title, the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of that section.

(2) If the Commissioner determines that a State or a local educational agency has substantially failed to provide for the participation on an equitable basis of children enrolled in private nonprofit elementary and secondary schools as required by section 2607(c) of this title, the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of that section.

(Pub. L. 95-207, § 9, Dec. 13, 1977, 91 Stat. 1469.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2605, 2607, 2614 of this title.

§ 2609. Model programs

(a) Grants

From funds reserved under section 2604(a)(2)(A) of this title, the Commissioner is authorized to make grants directly to State and local educational agencies, institutions of postsecondary education, and other nonprofit agencies and organizations to support projects, including projects of proven effectiveness, to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models particularly projects designed to eliminate bias and stereotyping on account of race, sex, age, economic status, or handicap.

(b) Other career education model and State and local educational program plan grants

Notwithstanding any other provision of law, no funds may be made available under the provisions of section 2612a(f)(1) of this title for grants or contracts with local educational agencies for any fiscal year in which funds are appropriated under this chapter and reserved for the purposes of this section under section 2604(a)(2)(A) of this title.

(Pub. L. 95-207, § 10, Dec. 13, 1977, 91 Stat. 1470.)

REFERENCES IN TEXT

Section 2612a(f)(1) of this title, referred to in subsec. (b), was repealed by Pub. L. 95-561, title III, § 301(b)(1)(E), Nov. 1, 1978, 92 Stat. 2228.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2604, 2605, 2607, 2614 of this title.

§ 2610. Postsecondary educational career demonstration projects

(a) Authorization of grants, contracts, or other arrangements

The Commissioner is authorized to arrange by way of grant, contract, or other arrangement with institutions of higher education, public agencies and nonprofit private organizations for the conduct of postsecondary educational career demonstration projects which—

(1) may have national significance or be of special value in promoting the field of career education in postsecondary educational programs,

(2) have unusual promise of promoting postsecondary career guidance and counseling programs, particularly postsecondary guidance and counseling programs designed to overcome bias and stereotyping on account of race, sex, age, economic status, or handicap, or

(3) show promise of strengthening career guidance, counseling, placement, and follow-up services.

(b) Prerequisite findings

The Commissioner shall approve arrangements under subsection (a) of this section if he finds—

(1) that the funds for which assistance is sought will be used for one of the purposes set forth in subsection (a) of this section, and

(2) that effective procedures, including objective measurements, will be adopted for evaluating at least annually the effectiveness of the project.

(c) Authorization of appropriations

For the purpose of carrying out the provisions of this section there is authorized to be appropriated $15,000,000 for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983.

(d) Other career education model and State and local educational program plan grants

Notwithstanding any other provision of law, no funds may be made available under the provisions of section 2612a(f)(1) of this title for grants or contracts with institutions of higher education for any fiscal year in which funds are appropriated pursuant to subsection (c) of this section.

(Pub. L. 95-207, § 11, Dec. 13, 1977, 91 Stat. 1470.)

REFERENCES IN TEXT

Section 2612a(f)(1) of this title, referred to in subsec. (d), was repealed by Pub. L. 95-561, title III, § 301(b)(1)(E), Nov. 1, 1978, 92 Stat. 2228.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2603, 2605, 2614 of this title.

§ 2611. Career education information

(a) Furnishing of information on Federal programs to interested parties

In consultation with members of the National Occupational Information Coordinating Committee, the Commissioner shall examine the occupational information needs of individuals and organizations eligible for participation in programs assisted by this chapter. The examination shall consider the present activities of the National Occupational Information Coordinating Committee, the State Occupational Information Coordinating Committees, and other occupational information activities of the Office of Education, the National Institute of Education, the Bureau of Labor Statistics, the Employment and Training Administration, and such other Federal agencies as the Commissioner deems appropriate. Upon the conclusion of the examination, the Commissioner shall, either directly or by way of grant, contract or other arrangement, furnish information to interested parties on Federal programs which gather, analyze and disseminate occupational and career information.

(b) Dissemination of information on exemplary career education programs to interested parties

The Commissioner shall, either directly or by way of grant, contract or other arrangement, disseminate information to interested parties on exemplary career education programs, including but not limited to programs assisted under this chapter.

(Pub. L. 95-207, § 12, Dec. 13, 1977, 91 Stat. 1471.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2604, 2605 of this title; title 29 section 883.

§ 2612. Administration

(a) Office of Career Education

(1) The Office of Career Education created pursuant to section 2612a of this title shall be the administering agency within the Office of Education for the review of the State plans, applications, and reports submitted pursuant to this chapter. In addition, the Office of Career Education shall perform a national leadership role in furthering the purposes of this chapter.

(2) The Office of Career Education shall, upon request, provide technical assistance to all participating State educational agencies and to Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b) National Advisory Council on Career Education

The National Advisory Council on Career Education created pursuant to section 2612a of this title shall perform the same functions with respect to the programs authorized under this chapter as the Council is authorized to perform with respect to the programs authorized under that section.

(c) National Institute of Education

Nothing in this chapter shall be construed to prohibit the National Institute of Education from continuing to carry out its functions in the field of career education. The Assistant Secretary of Health, Education, and Welfare for Education shall assure such cooperation as the Assistant Secretary deems appropriate between the Office of Education and the Institute to identify research and development priorities and, either directly or through arrangements with public agencies and private organizations (including institutions of higher education), to disseminate the results of the research and development undertaken by the Institute.

(d) Additional staff and resources

The Office of Education shall provide the Office of Career Education and the National Advisory Council on Career Education with sufficient staff and resources required to carry out their responsibilities under this chapter and under section 2612a of this title.

(Pub. L. 95-207, § 13, Dec. 13, 1977, 91 Stat. 1471.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2612a. Career education

(a), (b) Repealed. Pub. L. 95-561, title III, § 301(b)(1)(E), Nov. 1, 1978, 92 Stat. 2228

(c) Office of Career Education; establishment; Director of the Office; supervision of Commissioner

(1) In order to carry out the policies, purposes, and provisions of the Career Education Incentive Act [20 U.S.C. 2601 et seq.], there is established in the Office of Education an Office of Career Education (hereafter in this section referred to as the "Office"). The Office shall be headed by a Director.

(2) The Director of the Office shall report directly to the Commissioner.

(d) to (f) Repealed. Pub. L. 95-561, title III, § 301(b)(1)(E), Nov. 1, 1978, 92 Stat. 2228

(g) National Advisory Council for Career Education; establishment; official members: nonvoting ex officio capacity; public members: representation of disciplines and general public, appointment, Chairman, terms of office; staff and funds; duties; survey and assessment; report to Congress

(1) Subject to part D of the General Education Provisions Act [20 U.S.C. 1233 et seq.] and within ninety days after August 21, 1974, there is established a National Advisory Council for Career Education which shall be composed of—

(A) the Assistant Secretary of Health, Education, and Welfare for Education, the Commissioner of Education, the Director of the Office of Career Education, the Director of the National Institute of Education, the Administrator of the National Center for Education Statistics, the Director of the National Science Foundation, the Chairman of the National Foundation for the Arts, the Chairman of the National Foundation for the Humanities, the Chairman of the National Advisory Council for Vocational Education, all of whom shall serve in a nonvoting ex officio capacity; and

(B) not less than fifteen public members broadly representative of the fields of education, guidance, and counseling, the arts, the humanities, the sciences, community services, business and industry, and the general public, including (i) members of organizations of handicapped persons, minority groups knowledgeable with respect to discrimination in employment and stereotyping affecting career choices, and women who are knowledgeable with respect to sex discrimination and stereotyping, and (ii) not less than two members who shall be representative of labor and of business, respectively.

(2) The public members shall be appointed by the Secretary. The Secretary shall select the Chairman from among the public members. The members shall serve for terms of three years with not more than four seats rotating in any one year. The Commissioner shall provide such staff and funds for the Council as deemed necessary and such staff and funds shall be in addition to those provided elsewhere in this title.

(3) The duties of the Council shall be to advise the Commissioner on the implementation of this section and carry out such advisory functions as it deems appropriate, including reviewing the operation of this section and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purposes of career education as prescribed in this section.

(4) The Council with the assistance of the Commissioner shall conduct a survey and assessment of the current status of career education programs, projects, curricula, and materi-

als in the United States and submit to Congress, not later than May 1, 1976, a report on such survey and assessment. Such report shall include recommendations of the Council for new legislation designed to accomplish the policies and purposes set forth in subsections (a) and (b) of this section.

(h) Repealed. Pub. L. 95-561, title III, § 301(b)(1)(E), Nov. 1, 1978, 92 Stat. 2228

(Pub. L. 93-380, title IV, § 406, Aug. 21, 1974, 88 Stat. 551; Pub. L. 94-273, § 2(15), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94-482, title V, § 501(a)(6), (7), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 95-207, § 13(e), Dec. 13, 1977, 91 Stat. 1472; Pub. L. 95-561, title III, § 301(b)(1)(E), (3), Nov. 1, 1978, 92 Stat. 2228.)

References in Text

The Career Education Incentive Act, referred to in subsec. (c)(1), is Pub. L. 95-207, Dec. 13, 1977, 91 Stat. 1464, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The General Education Provisions Act, referred to in subsec. (g)(1), is title IV of Pub. L. 90-247, Jan. 2, 1968, 81 Stat. 814, as amended. Part D of the General Education Provisions Act was added as Part C of title IV by Pub. L. 91-230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166, redesignated Part D by Pub. L. 92-318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, and is classified generally to subchapter IV (§ 1233 et seq.) of chapter 31 of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

This title, referred to in subsec. (g)(2), is title IV of the Education Amendments of 1974, Pub. L. 93-380, Aug. 21, 1974, 88 Stat. 535, which was formerly classified to subchapter III (§ 1861 et seq.) of chapter 40 of this title and was repealed, except for this section, by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228, effective Sept. 30, 1979.

Codification

This section was formerly classified to section 1865 of this title.

This section was enacted as part of the Education Amendments of 1974, and not as part of the Career Education Incentive Act which comprises this chapter.

Amendments

1978—Subsecs. (a), (b). Pub. L. 95-561, § 301(b)(1)(E), struck out subsec. (a) containing the Congressional declaration of policies with regard to career education and subsec. (b) containing the Congressional declaration of objectives.

Subsec. (c)(1). Pub. L. 95-561, § 301(b)(3), substituted "the Career Education Incentive Act" for "this section".

Subsecs. (d), (e), (f), (h). Pub. L. 95-561, § 301(b)(1)(E), struck out subsec. (d) defining the term "career education", subsec. (e) providing for a survey and assessment of current career education programs, subsec. (f) providing for career educations model and local educational program plan grants, and subsec. (h) placing a limitation on fiscal year expenditures for each fiscal year ending prior to July 1, 1978.

1977—Subsec. (g)(1)(B). Pub. L. 95-207 substituted "not less than fifteen public members broadly representative of the fields of education, guidance, and counseling, the arts, the humanities, the sciences, community services, business and industry, and the general public, including (i) members of organizations of handicapped persons, minority groups knowledgeable with respect to discrimination in employment and stereotyping affecting career choices, and women who are knowledgeable with respect to sex discrimination and stereotyping, and (ii) not less than two members who shall be representative of labor and of business, respectively" for "not less than twelve public members broadly representative of the fields of education, the arts, the humanities, the sciences, community services, business and industry, and the general public, a majority of whom shall be engaged in education or education-related professions".

1976—Subsec. (e). Pub. L. 94-482, § 501(a)(6), substituted "May 1, 1976" for "November 1, 1975".

Subsec. (f). Pub. L. 94-273 substituted "September" for "June" wherever appearing therein.

Subsec. (g)(4). Pub. L. 94-482, § 501(a)(7), substituted "May 1, 1976" for "November 1, 1975".

Effective Date of 1978 Amendment

Section 301(b)(1) of Pub. L. 95-561 provided in part that the repeal of subsecs. (a), (b), (d), (e), (f), and (h) of this section by section 301(b)(1)(E) of Pub. L. 95-561 is effective Sept. 30, 1979.

Section 301(b)(3) of Pub. L. 95-561 provided in part that the amendment of subsec. (c) of this section by section 301(b)(3) of Pub. L. 95-561 is effective Sept. 30, 1978.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1001 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Termination of Advisory Councils

Advisory Councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Model Programs and Postsecondary Educational Career Demonstration Projects Under Career Education Incentive Act

Funds not to be made available under subsec. (f)(1) of this section for grants or contracts with local educational agencies for any fiscal year in which funds are appropriated under the Career Education Incentive Act [this chapter] and reserved for the purposes of the model programs provisions contained therein under section 2604(a)(2)(A) of this title, see section 2609(b) of this title.

Funds not to be made available under subsec. (f)(1) of this section for grants or contracts with institution of higher education for any fiscal year in which funds are appropriated pursuant to section 2610(c) of this title, see section 2610(d) of this title.

Section Referred to in Other Sections

This section is referred to in sections 2503, 2506, 2609, 2610, 2612 of this title.

§ 2613. Reports

(a) Annual State reports to Commissioner of Education

Unless the Commissioner finds the requirements of this subsection unnecessary, not later than December 31 of each fiscal year each State receiving funds under this chapter shall submit to the Commissioner a report evaluating the programs assisted with funds provided under this chapter for the preceding fiscal year. Such report shall include—

(1) an analysis of the extent to which the objectives set out in the State plan submitted pursuant to section 2605 of this title have been fulfilled during that preceding fiscal year;

(2) a description of the extent to which the State and local educational agencies within the State are using State and local resources to implement these objectives and a description of the extent to which funds received under this chapter have been used to achieve these objectives; and

(3) a description of the exemplary programs funded within the State, including an analysis of the reasons for their success, and a description of the programs which were not successful within the State, including an analysis of the reasons for their failure.

(b) Commissioner's analysis and recommendations to States

The Commissioner, through the Office of Career Education, shall analyze each one of the State reports submitted pursuant to subsection (a) of this section and shall provide to the State no later than three months after the date of such submission an analysis of the report and recommendations for improvement in the operation and administration of programs being provided by the State with funds made available under this chapter.

(c) Comprehensive review by Commissioner; report to Congress no later than September 30, 1982

The Commissioner shall conduct a comprehensive review of a random sample of the State programs funded under this chapter and shall submit a report on such review to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate by no later than September 30, 1982.

(Pub. L. 95-207, § 14, Dec. 13, 1977, 91 Stat. 1472; S. Res. 30, Mar. 7, 1979.)

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2608 of this title.

§ 2614. Definitions

For purposes of this chapter the term—

(1)(A) "career education", for the purposes of this chapter, except for paragraphs (2) and (3) of section 2607(a) of this title and sections 2607(b), 2607(c), 2608, 2609, and 2610 of this title, means the totality of experiences, which are designed to be free of bias and stereotyping (including bias or stereotyping on account of race, sex, age, economic status, or handicap), through which one learns about, and prepares to engage in, work as part of his or her way of living, and through which he or she relates work values to other life roles and choices (such as family life);

(B) "career education", for purposes of paragraphs (2) and (3) of section 2607(a) of this title and sections 2607(b), 2607(c), 2608, 2609, and 2610 of this title, limited to activities involving career awareness, exploration, decisionmaking, and planning, which activities are free of or are designed to eliminate bias and stereotyping (including bias or stereotyping on account of race, sex, age, economic status, or handicap), and shall not include any activities carried out by such agencies involving specific job skill training;

(2) "Commissioner" means the Commissioner of Education;

(3) "handicapped" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons, or persons with specific learning disabilities who by reason thereof require special education and related services;

(4) "local educational agency" has the meaning given such term by section 3381(f) of this title;

(5) "State" means the several States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(6) "State educational agency" has the meaning given such term by section 3381(k) of this title.

(Pub. L. 95-207, § 15, Dec. 13, 1977, 91 Stat. 1473.)

CODIFICATION

In pars. (4) and (6), references to "section 3381(f) of this title" and "section 3381(k) of this title" were in the original "section 801(f) of the Elementary and Secondary Education Act of 1965" and "section 801(k) of the Elementary and Secondary Education Act of 1965", respectively, meaning section 801, title VIII, of Pub. L. 89-10, which was formerly classified to section 881 of this title. Section 801 of that Act was renumbered section 1001 of title X by Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and was reclassified to section 3381 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 47—STRENGTHENING AND IMPROVEMENT OF ELEMENTARY AND SECONDARY SCHOOLS [NEW]

SUBCHAPTER I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

Sec.

- 2701. Declaration of policy.
- 2702. Duration of assistance.

PART A—PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

SUBPART 1—BASIC GRANTS

- 2711. Amount and eligibility for grants.
  - (a) Amount of grants.
  - (b) Minimum number of children to qualify.
  - (c) Children to be counted.
  - (d) Program for Indian children.
- 2712. Treatment of earnings for purposes of aid to families with dependent children.
- 2713. Authorization of appropriations; assistance of otherwise lower fiscal year allotment levels.

SUBPART 2—SPECIAL GRANTS

- 2721. Special incentive grants.
  - (a) Eligibility.
  - (b) Amount of grants.
  - (c) Payments; use of funds.
  - (d) Ratable reductions.
  - (e) Appropriations.
- 2722. Grants for local educational agencies in counties with especially high concentrations of children from low-income families.
  - (a) Purpose.
  - (b) Eligibility for and amount of special grants.
  - (c) Payments; use of funds.
  - (d) Appropriations.

SUBPART 3—PROGRAM REQUIREMENTS AND APPLICATIONS

- 2731. Local program application.
- 2732. Designating school attendance areas.
  - (a) General provisions.
  - (b) Use of enrollment data in certain schools.
  - (c) Continuation of eligibility for certain school attendance areas or schools.
  - (d) Lower ranked school attendance areas or schools having substantially greater incidences of educationally deprived children than higher ranked areas or schools.
  - (e) Skipping higher ranked school attendance areas or schools receiving services of the same nature and scope from non-Federal sources.
- 2733. Children to be served.
  - (a) General provisions.
  - (b) Continuation of eligibility for educationally deprived children who are no longer in greatest need of assistance.
  - (c) Continuation of eligibility for educationally deprived children transferred to ineligible areas or schools in the same year.
  - (d) Skipping children determined to be in greatest need of assistance who are receiving services of the same nature and scope from non-Federal sources.
- 2734. Requirements for design and implementation of programs.
  - (a) Purpose of program.
  - (b) Assessment of educational need.

Sec.

  - (c) Planning.
  - (d) Sufficient size, scope, and quality.
  - (e) Expenditures related to ranking of project areas and schools.
  - (f) Coordination with other programs.
  - (g) Evaluations.
  - (h) Information dissemination.
  - (i) Teacher and school board participation.
  - (j) Parent participation.
  - (k) Sustaining gains.
  - (*l*) Training of education aides.
  - (m) Control of funds.
  - (n) Construction.
  - (*o*) Jointly operated programs.
- 2735. Parental involvement.
  - (a) Establishment of advisory councils.
  - (b) Responsibilities of advisory councils.
  - (c) Access to information.
  - (d) Training programs.
  - (e) Workshops on parental involvement.
  - (f) Assessment of parental involvement and training.
  - (g) Authorization of appropriations.
- 2736. Funds allocation.
  - (a) Maintenance of effort.
  - (b) Use of funds limited to excess costs.
  - (c) Federal funds to supplement, not supplant regular non-Federal funds.
  - (d) Federal funds required to supplement, not supplant non-Federal funds for certain special State and local programs.
  - (e) Comparability of services.
- 2737. Accountability.
  - (a) Recordkeeping.
  - (b) Reporting.
  - (c) Access to information.
- 2738. Complaint resolution.
- 2739. Individualized plans.
- 2740. Participation of children enrolled in private schools.
  - (a) General requirements.
  - (b) By-pass provision.

SUBPART 4—EXEMPTIONS FROM CERTAIN PROGRAM REQUIREMENTS

- 2751. Exclusions from excess costs and comparability provisions for certain special State and local programs.
  - (a) In general.
  - (b) Special program and State phase-in program defined.
  - (c) State and local compensatory education programs similar to subchapter I programs.
  - (d) Certain State phase-in programs.
  - (e) Advance determinations by the Commissioner.
  - (f) Advance determination by the State educational agency.
- 2752. Limited exemption to supplement, not supplant, requirement where certain special programs for educationally deprived children are fully funded.
- 2753. Schoolwide projects.
  - (a) Use of funds for schoolwide projects.
  - (b) Designation of schools.
  - (c) Approval of school; operation of project.
- 2754. Noninstructional duties.

PART B—PROGRAMS OPERATED BY STATE AGENCIES

SUBPART 1—PROGRAMS FOR MIGRATORY CHILDREN

- 2761. Entitlement and amount of grants.
  - (a) Entitlement.
  - (b) Amount of grant.

Sec.

- 2762. Program requirements.
  - (a) Requirements for approval of application.
  - (b) Continuation of migrant status.
  - (c) By-pass provision.
- 2763. Coordination of migrant education activities.
  - (a) Activities authorized.
  - (b) Authorization of appropriations.

SUBPART 2—PROGRAMS FOR HANDICAPPED CHILDREN

- 2771. Amount and eligibility.
  - (a) Eligibility for grant.
  - (b) Amount of grant.
  - (c) Counting of children transferring from State to local programs.
- 2772. Program requirements.

SUBPART 3—PROGRAMS FOR NEGLECTED AND DELINQUENT CHILDREN

- 2781. Amount and entitlement.
  - (a) Entitlement to grants.
  - (b) Amount of grant.
- 2782. Program requirement.
  - (a) Use of payments.
  - (b) Three-year projects.
- 2783. Transition services.
  - (a) Grants authorized.
  - (b) Appropriations authorized.

SUBPART 4—GENERAL PROVISIONS FOR STATE OPERATED PROGRAMS

- 2791. Reservation of funds for territories.
- 2792. Minimum payments for State operated programs.

PART C—STATE ADMINISTRATION OF PROGRAMS AND PROJECTS

SUBPART 1—APPLICABILITY; STATE APPLICATIONS

- 2801. Applicability.
- 2802. State applications.
  - (a) Submission of State applications.
  - (b) Contents of State applications.

SUBPART 2—DUTIES IMPOSED ON STATE EDUCATIONAL AGENCIES

- 2811. Application approval.
  - (a) Requirements for approval.
  - (b) Payments.
  - (c) Opportunity for hearing.
- 2812. State rulemaking.
- 2813. Technical assistance and dissemination of information.
- 2814. Monitoring.
- 2815. Complaint resolution.
- 2816. Withholding of payments.
  - (a) Withholding.
  - (b) Notice to public of State withholding.
  - (c) Compliance agreements.
  - (d) Review by the Commissioner.
- 2817. Audits and audit resolution.
  - (a) Auditing.
  - (b) Audit resolution.
  - (c) Requirement for repayment.
  - (d) Review by the Commissioner.
  - (e) Failure to repay.

SUBPART 3—RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES TO COMMISSIONER

- 2821. State monitoring and enforcement plans.
  - (a) State plan.
  - (b) Report.
- 2822. Reporting.
- 2823. Recordkeeping, fiscal control, and fund accounting.
- 2824. Prohibition of consideration of Federal aid in determining State aid.

PART D—FEDERAL ADMINISTRATION OF PROGRAMS AND PROJECTS

Sec.

- 2831. Applicability.
- 2832. Approval of applications.
  - (a) Requirement for approval.
  - (b) Hearings.
- 2833. Program evaluation.
  - (a) Independent evaluations.
  - (b) Evaluation standards and schedule.
  - (c) Jointly sponsored studies.
  - (d) Evaluation models.
  - (e) Technical assistance.
  - (f) Specification of objective criteria.
  - (g) Report to Congress.
  - (h) Information dissemination.
  - (i) Maximum expenditures.
- 2834. Complaint resolution.
- 2835. Audits and audit resolution.
  - (a) Auditing.
  - (b) Audit resolution and repayment.
- 2836. Withholding of payments.
  - (a) Withholding.
  - (b) Notice to public of Commissioner withholding.
  - (c) Compliance agreement.
- 2837. Policy manual.
  - (a) Scope and purpose.
  - (b) Contents of policy manual.
- 2838. Enforcement report.

PART E—PAYMENTS

- 2841. Payment methods.
- 2842. Amount of payments to local educational agencies.
- 2843. Adjustments where necessitated by appropriations.
  - (a) Adjustment allocation.
  - (b) Additional funds allocation.
- 2844. Payments for State administration.

PART F—GENERAL PROVISIONS

- 2851. Judicial review.
  - (a) Filing appeals.
  - (b) Basis of review.
  - (c) Judicial appeals.
- 2852. National Advisory Council.
  - (a) Council established.
  - (b) Functions.
  - (c) Reports.
- 2853. Limitation on grant to Puerto Rico.
- 2854. Definitions.

SUBCHAPTER II—BASIC SKILLS IMPROVEMENT

PART A—NATIONAL PROGRAM

- 2881. Purpose.
- 2882. Applications.
- 2883. Acceptance of gifts.
- 2884. Grants and contracts.
- 2885. Instruction in basic skills.
- 2886. Parental participation in basic skills instruction.
- 2887. Use of technology in basic skills instruction.
- 2888. Involvement of educational agencies and private organizations.
- 2889. Collection and dissemination of information relating to basic skills programs.
- 2890. Coordination.

PART B—STATE BASIC SKILLS IMPROVEMENT PROGRAM

- 2901. Statement of purpose.
- 2902. Agreements with State educational agencies.
  - (a) Scope and contents.
  - (b) Grant requirements and funding.
  - (c) Participation of children enrolled in private elementary and secondary schools.

Sec.
- (d) Applications; development, contents, etc.
- (e) Additional activities subject to assistance and support.
- (f) Mandatory agreement with State.

2903. Distribution of funds.
2904. State leadership program.

PART C—SPECIAL PROGRAMS FOR IMPROVING BASIC SKILLS

2911. Inexpensive book distribution program for reading motivation.
- (a) Contracting authority; payment of Federal share.
- (b) Contents of contract.
- (c) Payment requirements.
- (d) Definitions.
- (e) Authorization of appropriations.

2912. Special mathematics program; authorization of appropriations.

PART D—GENERAL PROVISIONS

2921. Authorization of appropriations.
2922. Apportionment of appropriations.

SUBCHAPTER III—SPECIAL PROJECTS

PART A—GENERAL PROVISIONS

2941. Statement of purpose.
2942. Grants and contracts authorized.
2943. Discretionary projects of Commissioner.
- (a) Granting or contracting authority for innovative or experimental projects.
- (b) Additional granting authority for development or demonstration of innovative methods or techniques.
- (c) Additional granting and contracting authority for programs in energy conservation; use of materials.
- (d) Authorization of appropriations; reservation of funds.

PART B—METRIC EDUCATION

2951. Short title; declaration of purpose.
2952. Program authorized; definition.
2953. Application.
2954. Authorization of appropriations.

PART C—ARTS IN EDUCATION

2961. Short title; statement of findings.
2962. Program authorized.
2963. Authorization of appropriations.

PART D—PRESCHOOL PARTNERSHIP PROGRAMS

2971. Establishment of program.
- (a) Cooperative efforts to carry out program purposes.
- (b) Implementation requirements for projects established.
- (c) Additional programs subject to funding.
- (d) Availability of funds.

PART E—CONSUMER EDUCATION

2981. Short title; statement of findings.
2982. Office of Consumers' Education; appointment of Director.
2983. Program authorized; availability of funds.
2984. Application.
2985. Reports and evaluations.
2986. Reservation of funds.

PART F—YOUTH EMPLOYMENT

2991. Program authorized; activities implementing program.
2992. Authorization of appropriations.

PART G—LAW-RELATED EDUCATION

3001. Short title; declaration of findings.

Sec.
3002. Program authorized.
- (a) Granting and contracting authority.
- (b) Definition.
- (c) Application for financial assistance.
- (d) Availability of funds.

3003. Authorization of appropriations.

PART H—ENVIRONMENTAL EDUCATION

3011. General provisions.
- (a) Short title.
- (b) Declaration of findings.
- (c) Purpose.

3012. Office of Environmental Education; appointment and compensation of Director.
3013. Program authorized; granting and contracting authority.
3014. Application.
- (a) Submission, form and contents; criteria for approval.
- (b) Additional approval requirements.
- (c) Approval of amendments.
- (d) Funding requirements.

3015. Technical assistance.
3016. Special grants.
- (a) Maximum amounts; recipients.
- (b) Priority.
- (c) Evidence of longevity of existence of interested organization or group.
- (d) Proposal information.

3017. Administration.
3018. Authorization of appropriations.

PART I—HEALTH EDUCATION

3021. Short title; declaration of purpose.
3022. Program authorized.
3023. Application.
3024. Authorization of appropriations.

PART J—CORRECTION EDUCATION

3031. Short title.
3032. Program authorized; application requirements.
3033. Technical assistance.
3034. Authorization of appropriations.

PART K—DISSEMINATION OF INFORMATION

3041. Allocation of funds.

PART L—BIOMEDICAL SCIENCES

3051. Findings and purpose.
3052. Definitions.
3053. Projects for economically disadvantaged students.
- (a) Granting and contracting authority.
- (b) Approval of applications.
- (c) Funding.

3054. Project activities; funding requirements.
3055. Applications.
3056. Use of funds.
3057. Appropriations authorized.
- (a) Amounts.
- (b) Amount available for evaluations.
- (c) Availability of appropriated sums.

PART M—POPULATION EDUCATION

3061. Short title.
3062. Program authorized.
- (a) Granting and contracting authority.
- (b) Program and project activities.
- (c) Application; submission, form and contents.
- (d) Clearinghouse on population education; establishment, etc.
- (e) Availability of funds.

SUBCHAPTER IV—EDUCATIONAL IMPROVEMENT, RESOURCES, AND SUPPORT

PART A—GENERAL PROVISIONS

3081. Purpose.
3082. Authorization of appropriations.

Sec.
3083. Allotments to States.
  (a) Computation of amounts; definition.
  (b) Reallotments; computation of amounts.
  (c) Funding.
3084. State plans.
  (a) Submission, form, and contents.
  (b) State advisory council; appointment, duties, etc.
  (c) Approval of plan and modifications.
3085. Payments to States.
3086. Participation of children enrolled in private schools.
  (a) Availability of secular, neutral, and nonideological services, materials, and equipment; contracts for services and materials.
  (b) Determination of expenditures.
  (c) Control of funds and title to materials, equipment, and property; provision of services.
  (d) State prohibitions on participation; waiver of Federal statutory requirements.
  (e) State or local failure or unwillingness to participate; waiver of Federal requirements; withholding of allocation.
  (f) Duration of determination respecting State or local failure or inability to participate.
  (g) Payment of cost of services.
  (h) Procedures applicable.

PART B—INSTRUCTIONAL MATERIALS AND SCHOOL LIBRARY RESOURCES

3101. Activities authorized.
3102. Program requirements.

PART C—IMPROVEMENT IN LOCAL EDUCATIONAL PRACTICE

3111. Activities authorized.
3112. Program requirements.
  (a) Amount and availability of funds.
  (b) Allocation of sums; approval of activities.
  (c) Minimum amount for use in special programs or projects for handicapped children; definition.
  (d) Approval of application by State educational agency.

PART D—GUIDANCE, COUNSELING, AND TESTING

3121. Program authorized; funding.
3122. Program requirements.
3123. Administration; funding.

SUBCHAPTER V—STATE LEADERSHIP

PART A—ADMINISTRATION OF EDUCATION PROGRAMS AND DUTIES OF THE STATE EDUCATIONAL AGENCY

3141. Single State application.
  (a) Submission; approval by State official, etc.
  (b) Required assurances.
  (c) Continuation of effectiveness.
3142. Single local educational agency application.
  (a) Submission.
  (b) Required assurances.
  (c) Continuation of effectiveness.
3143. Application approval.
  (a) Mandatory and discretionary requirements.
  (b) Payments subsequent to approval.
  (c) Procedures applicable for disapproval.
3144. State rulemaking.
Sec.
3145. Technical assistance and dissemination of information.
3146. Monitoring.
3147. Complaint resolution.
3148. Withholding of payments.
  (a) Procedures applicable; authorization.
  (b) Notification requirements.
  (c) Suspension of initiation or continuation of withholding action pursuant to compliance agreement; definition; notices of agreement.
  (d) Appeal of final determinations.
3149. Audits and audit resolution.
  (a) Scope and frequency of audits.
  (b) Procedures required for timely and appropriate resolution of audit findings and recommendations.
  (c) Repayment of misspent or misapplied funds.
  (d) Appeal of final determination.
  (e) Refusal to repay misspent or misapplied funds; initiation of collection action.
3150. Payments.
  (a) Maximum and minimum amounts.
  (b) Authorization of appropriations; preconditions.
  (c) Additional funding; authorization of appropriations.

PART B—STRENGTHENING STATE EDUCATIONAL AGENCY MANAGEMENT

3161. Activities authorized.
3162. Program requirements.
3163. Authorization of appropriations.
  (a) Duration.
  (b) Prerequisites.
  (c) Reservation of sums.
3164. Allotments to States [New].

PART C—COUNCILS ON QUALITY IN EDUCATION

3171. National and State Advisory Councils.
  (a) National Council on Quality in Education; establishment, membership, functions, etc.
  (b) State advisory councils; establishment, membership, functions, etc.
  (c) Authorization of appropriations.

SUBCHAPTER VI—EMERGENCY SCHOOL AID

3191. Short title.
3192. Findings and purpose.
3193. Policy with respect to the application of certain provisions of Federal law.
3194. Authorization.
  (a) Program implementation; delegation of functions.
  (b) Authorization of appropriations.
  (c) Additional authorization of appropriations; funding requirements.
3195. Apportionment among States; reapportionment requirements.
3196. Eligibility for assistance.
  (a) Granting or contracting authority.
  (b) Maximum amount of grant or contract.
  (c) Activities after June 23, 1972 as determining eligibility; exceptions; applicability.
3197. Authorized activities; preferential hiring of teacher aides.
3198. Special programs and projects.
  (a) Granting and contracting authority.
  (b) Additional granting or contracting authority.
  (c) Additional granting authority; application requirements.
3199. Metropolitan area projects.

Sec.
- 3200. Applications.
  - (a) Submission, form, and contents; availability to public; determinations respecting approval.
  - (b) Notification requirements.
  - (c) Written comments of committee to accompany application.
  - (d) Criteria for approval.
  - (e) Longevity; payments pursuant to prior approved applications.
  - (f) Voluntariness of adoption of desegregation plan as affecting consideration of application; notice of reasons for disapproval; opportunity to modify application.
  - (g) Filing dates.
  - (h) Application for joint program or project.
  - (i) Prohibition of reduction in amount of State aid.
- 3201. Educational television and radio.
  - (a) Granting or contracting authority; availability for transmission; criteria for approval of applications.
  - (b) Availability of funds.
  - (c) Maximum amounts available for radio programming.
- 3202. Payments.
  - (a) Reservation for approved application of amounts from applicable apportionment or reapportionment.
  - (b) Manner of payments.
  - (c) Services for children and staff enrolled or employed in private nonprofit elementary and secondary schools; procedures applicable; amounts available.
  - (d) Notification requirements.
- 3203. Evaluations.
- 3204. Joint funding.
- 3205. Attorney fees.
- 3206. Neighborhood schools.
- 3207. Definitions.

SUBCHAPTER VII—BILINGUAL EDUCATION PROGRAMS

- 3221. Short title.
- 3222. Policy; appropriations.
- 3223. General provisions.
  - (a) Definitions.
  - (b) Establishment, publication, and distribution of suggested models for programs.
  - (c) Consultations respecting regulations.

PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

- 3231. Bilingual education programs.
  - (a) Programs, activities, etc. subject to grants.
  - (b) Submission, manner, contents, etc., of application for grant; procedures applicable and criteria for termination of assistance; criteria for approval of application; priority requirements; State coordination of technical assistance.
  - (c) Priority for distribution of funds.
  - (d) Programs in Commonwealth of Puerto Rico.
  - (e) Longevity of application; payments pursuant to prior approved application.
  - (f) Inability or unwillingness of applicant to provide for participation of children with limited English proficiency in program; subsequent remedial activities.

Sec.
- 3232. Indian children in schools.
  - (a) Implementation of programs by nonprofit institution or organization of Indian tribe operating elementary or secondary school.
  - (b) Payments to applicants.
  - (c) Assessment of programs by Assistant Secretary of the Interior for Bureau of Indian Affairs.
- 3233. Training; definition.

PART B—ADMINISTRATION

- 3241. Office of Bilingual Education.
  - (a) Establishment; implementation of functions of Commissioner.
  - (b) Director; appointment; functions; organization of Office.
  - (c) Reporting requirements of Commissioner.
  - (d) Development of program models by Commissioner; publication in Federal Register.
  - (e) Reporting and developmental functions of Secretary.
  - (f) Additional reporting requirements of Secretary.
  - (g) Coordination and cooperative responsibilities of Commissioner.
  - (h) Staffing responsibilities of Commissioner.
- 3242. National Advisory Council on Bilingual Education.
  - (a) Establishment; membership; Chairman; termination.
  - (b) Meetings.
  - (c) Developmental and reporting functions.
  - (d) Staffing and informational responsibilities of Commissioner.

PART C—SUPPORTIVE SERVICES AND ACTIVITIES

- 3251. Administration.
- 3252. Bilingual education research and development.
  - (a) Competitive contracts for financial assistance by Commissioner with institutions of higher education, etc.; programs of National Institute of Education; coordination of activities by Assistant Secretary.
  - (b) Scope of authorized activities.
  - (c) Consultation requirements of Commissioner and Director of National Institute of Education.
  - (d) Publication and dissemination of information by Assistant Secretary.
  - (e) Competitive contracts for development and dissemination of instructional materials and equipment by Commissioner and Director of National Institute of Education with public agencies, etc.
  - (f) Authorization of appropriations.

PART D—CONTINUED BILINGUAL EDUCATION ASSISTANCE

- 3261. Assistance to local educational agencies eligible under the Emergency School Aid Act.
  - (a) Program authorization; allotment of funds; granting and contracting authority; scope of grants and contracts; eligibility for grant or contracts; nature of programs or projects.
  - (b) Programs or projects as part of bilingual-bicultural education program.
  - (c) Authorization of appropriations.

SUBCHAPTER VIII—COMMUNITY SCHOOLS

Sec.
3281. Short title.
3282. Statement of findings and policy.
3283. Definition of community education program.
3284. State programs for community education; authorization of appropriations.
3285. Allotment; reallotment.
3286. Use of community education programs for non-Federal contribution in certain Federal programs.
3287. Uses of funds.
3288. State plan.
3289. Grants to local educational agencies.
    (a) Authorization, scope, etc.
    (b) Time, manner, and contents of application; collaboration between agencies.
    (c) Authorization of appropriations.
3290. Grants to public agencies and nonprofit organizations for delivery of community services through community education.
    (a) Authorization, scope, etc.
    (b) Time, manner, and contents of application.
    (c) Authorization of appropriations.
3291. National leadership and planning; authorization of appropriations.
3292. Training of community education personnel.
    (a) Authorization, scope, etc.
    (b) Time, manner, and contents of application.
    (c) Authorization of appropriations.
3293. Research; authorization of appropriations.
3294. Administration.
    (a) Establishment, functions, operations, etc., of clearinghouse.
    (b) Establishment, membership, functions, etc., of Community Education Advisory Council.
    (c) Program under authority of Executive Deputy Commissioner for Educational Programs.
    (d) Authorization of appropriations.
3295. Federal share.

SUBCHAPTER IX—ADDITIONAL PROGRAMS

PART A—GIFTED AND TALENTED CHILDREN

3311. General provisions.
    (a) Short title.
    (b) Declaration of findings.
    (c) Purpose.
3312. Definition.
3313. Authorization of appropriations; apportionment of appropriations.
3314. State programs.
    (a) Authorization and scope of grants.
    (b) Distribution and allotment of funds.
    (c) Time, manner, and contents of application; required assurances.
    (d) Procedures applicable for approval or disapproval of application.
3315. Discretionary programs.
    (a) Scope of grants or contracts; funding limitations.
    (b) Application for grant or contract; submission, form, manner, and contents; applicability to programs and projects of requirements respecting participation of pupils and teachers in private, elementary and secondary schools.
    (c) Implementation of research, etc., programs by National Institute of Education; definition.
3316. State allotments; reallotments.
3317. Administration.
    (a) Designation of administrative unit within Office of Education; functions.

Sec.
    (b) Indian tribe operating schools for its children as local education agency.
    (c) Limitations on financial assistance; applicability.
3318. Federal share.

PART B—EDUCATIONAL PROFICIENCY STANDARDS

3331. Grants to implement educational proficiency standards.
    (a) Authorization and scope.
    (b) Submission and form of, procedures applicable to, and educational proficiency plan contained in, application; contents of plan.
    (c) Criteria applicable to award of grant; use of grant.
    (d) Authorization of appropriations.
    (e) Definition.
    (f) Prohibited activities.
3332. Achievement testing assistance.
    (a) Granting or contracting authority; scope of activities.
    (b) Testing prohibitions.
    (c) Authorization of appropriations.

PART C—WOMEN'S EDUCATIONAL EQUITY

3341. General provisions.
    (a) Short title.
    (b) Declaration of findings; purpose.
    (c) Definition.
3342. Granting and contracting authority; funding requirements.
3343. Application; participation.
3344. Small grants.
3345. Criteria and priorities.
3346. National Advisory Council on Women's Educational Programs.
    (a) Establishment; composition; Chairperson.
    (b) Terms of office of members.
    (c) Functions.
    (d) Applicability of other Federal statutory provisions.
3347. Reports.
3348. Authorization of appropriations.

PART D—SPECIAL GRANTS FOR SAFE SCHOOLS

3351. Purpose.
3352. Authorization of appropriations.
3353. Allotments to local educational agencies; criteria.
3354. Application.
    (a) Submission as prerequisite for grant; adoption and implementation of plan in conjunction with application; scope of plan.
    (b) Use of funds; limitations.
    (c) Regulations.
    (d) Consultation requirements.

PART E—ETHNIC HERITAGE PROGRAM

3361. Statement of policy.
3362. Ethnic heritage studies programs.
3363. Authorized activities.
3364. Applications; criteria for approval.
3365. Administrative provisions; funding.
3366. National Advisory Council on Ethnic Heritage Studies; establishment, functions, etc.
3367. Authorization of appropriations.

SUBCHAPTER X—GENERAL PROVISIONS

3381. Definitions.
3382. Federal administration.
3383. Waiver of requirements for certain jurisdictions.
    (a) Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.
    (b) Puerto Rico.

Sec.
3384. Prohibition against use of funds for religious worship or instruction.
3385. Improvement of educational opportunities for Indian students.
  (a) Special programs and projects; inservice programs; dissemination of information and materials; evaluation.
  (b) Planning, pilot, and demonstration projects.
  (c) Educational enrichment programs and services.
  (d) Education personnel; preference to be given to training of Indians.
  (e) Program evaluation; technical assistance; information dissemination; programs, services, and resources available to Indian children.
  (f) Applications for grants; time of submission; information; parental participation; funds to be used to supplement, not supplant, funds from other sources.
  (g) Authorization of appropriations.
3385a. Special educational training programs for teachers of Indian people.
  (a) Grants and contracts for special programs and projects: priority to Indian entities; fellowships and traineeships: preference to Indians; education allowance grants and contracts.
  (b) Stipends and allowances to recipients of traineeships and fellowships.
  (c) Authorization of appropriations.
3385b. Fellowships for Indian students.
  (a) Number for each fiscal year; graduate and professional program studies; academic year limitations; award of vacated fellowships for remainder of period.
  (b) Stipends and allowances to recipients of fellowships.
  (c) Payments in lieu of tuition for holders of fellowships.
3386. Open meetings of educational agencies.

CODIFICATION

The Elementary and Secondary Education Act of 1965, comprising this chapter, was originally enacted as Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, amended by Pub. L. 89-750, Nov. 3, 1966, 80 Stat. 1191; Pub. L. 90-247, Jan. 2, 1968, 81 Stat. 783; Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92-318, June 23, 1972, 86 Stat. 235; Pub. L. 93-380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94-482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95-112, Aug. 24, 1977, 91 Stat. 911, and classified to sections 241a et seq., 242 et seq., 331 et seq., 821 et seq., and 1801 et seq. of this title. The Act is shown, herein, however, as having been added by Pub. L. 95-561 without reference to such intervening amendments because of the extensive amendments, reorganization of subject matter, and expansion of the basic 1965 Act's provisions by Pub. L. 95-561.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1221e-1, 3441 of this title; title 7 section 1704; title 42 sections 2000d-5, 3013, 3026.

SUBCHAPTER I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 244, 425, 1087ee, 1231b-2, 1232d, 1401, 2890, 2912, 3102, 3141, 3150, 3194, 3197, 3200, 3383; title 29 section 777b.

§ 2701. Declaration of policy

In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this subchapter) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children. Further, in recognition of the special educational needs of children of certain migrant parents, of Indian children and of handicapped, neglected, and delinquent children, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this subchapter) to help meet the special educational needs of such children.

(Pub. L. 89-10, title I, § 101, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2153.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 101 of, act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 201, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 27, which was classified to section 241a of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-46, § 8, Aug. 6, 1979, 93 Stat. 343, provided that: "The amendments made by this Act [enacting section 3164 of this title, amending sections 240, 241-1, 930, 1211a, 1221-3, 1221h, 1226c, 1232g, 2308, 2310, 2603, 2721, 2733 to 2735, 2740, 2762, 2763, 2772, 2782, 2902, 3084, 3163, 3200, 3289, 3381 to 3386 of this title and sections 2001, 2002, 2006, 2008, 2012 of Title 25, Indians, enacting a provision set out as a note under section 1221e of this title, and amending provisions set out as notes under sections 236, 1211b, 1221-1, 1231a, and 2701 of this title and section 13 of Title 25] shall take effect October 1, 1978."

EFFECTIVE DATE

Section 1530 of Pub. L. 95-561, as amended by Pub. L. 96-46, § 2(a)(10), Aug. 6, 1979, 93 Stat. 340, provided that:

"(a) Except as otherwise specifically provided in this Act, the provisions of this Act and the amendments and repeals made by this Act [see Short Title note below] shall take effect October 1, 1978.

"(b) The provisions of section 412(b)(2) of the General Education Provisions Act [section 1225(b)(2) of this title], as added by section 1245 of this Act, shall not take effect with respect to the use of funds under section 421 of the Elementary and Secondary Education Act of 1965 [section 3101 of this title] until October 1, 1980, except at the option of local educational agencies."

SHORT TITLE OF 1978 AMENDMENT

Section 1 of Pub. L. 95-561 provided: "That this Act [enacting this chapter and chapter 25A of this title, sections 241bb-1, 1207a, 1211c, 1221-3, 1221e-1a, 1221j, 1226a-1, 1226c-1, 1231c-1, 1231g, 1232f, and 1234 to 1234e of this title, sections 13-1 and 2001 to 2019 of

Title 25, Indians, section 429 of Title 37, Pay and Allowances of the Uniformed Services, and sections 1769b and 1789 of Title 42, The Public Health and Welfare, amending sections 237, 238, 239, 240, 241, 241-1, 241b-1, 241aa, 241bb, 241cc, 241dd, 241ee, 241ff, 244, 633, 635, 640, 645, 646, 887c-1, 887c-2, 1072, 1087ee, 1088f-1, 1119, 1119a, 1201, 1202, 1203, 1204, 1205, 1206, 1208, 1208a, 1208b, 1209, 1210, 1211, 1211a, 1211b, 1221c, 1221e, 1221e-1, 1221e-3, 1221g, 1221h, 1225, 1226c, 1226d, 1231b-2, 1231c, 1232-1, 1232c, 1232d, 1232e, 1232h, 1411, 1603, 1865, and 2532 of this title and section 1773 of Title 42, repealing sections 241a to 241*o*, 887d, 1208-1, 1601 to 1619, 1851 to 1853, 1861 to 1864, 1866, 1867, 1901, 1921, 1941 to 1944, 1961 to 1966, and 1981 to 1983 of this title, and enacting provisions set out as notes under sections 237, 238, 240, 241aa, 244, 921, 1072, 1172, 1211b, 1221-1, 1221-3, 1231a, 1232c, 1601, 1865, 2701, 2711, and 3081 of this title, section 287 of Title 22, Foreign Relations and Intercourse, and section 13 of Title 25] may be cited as the 'Education Amendments of 1978'."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-112, § 1, Sept. 24, 1977, 91 Stat. 911, provided that Pub. L. 95-112 [which amended provisions now covered by this chapter and sections 1209, 1211, 1211a, and 1225 of this title] could be cited as the Education Amendments of 1977".

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93-380, § 1, Aug. 21, 1974, 88 Stat. 484, provided that Pub. L. 93-380 [which enacted chapters 39 (sections 1701 to 1758) and 41 (sections 1901 to 1982) and sections 244(16), (17), 246, 1134r-1, 1208-1, 1208b, 1221-1, 1221-2, 1221e-1 to 1221e-3, 1221i, 1226a to 1226d, 1228, 1230, 1231b-1, 1231b-2, 1232f to 1232i, 1233h, 1248(14), (15), 1393 to 1393f, 1403(c), 1424a, 3385a, and 3385b and provisions now covered by this chapter, amended sections 237 to 240, 241-1, 241bb, 244, 351d, 441, 633, 635, 645, 646, 1009, 1052, 1070d-1, 1070e-1, 1101, 1103, 1104, 1135, 1202 to 1205, 1208, 1209, 1211, 1211a, 1221, 1221a to 1221c, 1221e, 1221g, 1225, 1227, 1231f, 1232, 1232c, 1233b, 1233d, 1233f, 1242, 1244, 1262, 1402, 1403, 1411 to 1413, 1426, 1436, 1444, 1452, 1454, 1461, 1603, 1605, 1607 to 1609, 1615, and 1619 of this title, and repealed section 241d-11, and sections 241d-12, 844a(d), 844b, 845(c), 887b, 1221e(f), 1222, 1224, and 1608(a)(3) of this title; enacted notes set out under sections 238, 1221-1, 1221e, 1221e-1, 1223, 1231f, 1232c, 1402, 1603, and 1681 of this title] could be cited as the "Education Amendments of 1974".

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 121 which enacted sections 241d to 241d-2, 241d-11, 241d-12, 866 to 869a, 869b, 880b-3a, 887a, 887b, 1231 to 1233h, 1401 to 1406, 1411 to 1426, 1431 to 1436, 1441 to 1444, 1451 to 1454, and 1461 of this title and section 2000d-6 of Title 42, The Public Health and Welfare; amended sections 102, 104, 237 to 241b, 241c, 241e, 241f to 241h, 241j to 241m, 242 to 244, 331a, 332a, 355c, 425, 441, 443, 561, 633, 635, 636, 642, 646, 821, 822, 824, 841 to 844a, 844b, 845, 847, 847a, 861 to 865, 869b, 870, 880b-1, 880b-4, 880b-5, 881, 883, 887, 1009, 1025, 1034, 1053, 1068, 1089, 1091a, 1101, 1104, 1111, 1119c-4, 1141, 1144, 1145, 1174, 1177, 1221, 1222, 1223, 1224, 1225, 1226, 1242 to 1244, 1322, 1323, 1341, 1371, 1373, and 1391 of this title; repealed sections 3, 4, 6, 241h-1, 241i, 333 to 337, 402, 582, 583, 611 to 618, 621 to 624, 752, 757, 848, 869b to 880a, 880b-6, 882, 884, 886, 888, 961, 1143, 1146 to 1150, 1175, 1245, and 1246 of this title and sections 2491 to 2494 and 2698 to 2698b of title 42; enacted provisions set out as notes under sections 241a, 241c, 241e, 241h, 425, 611 to 618, 635, 841, 844a, 863, 1101, 1201, and 1209 of this title; amended provisions set out as notes under sections 11 and 241a of this title; and repealed provisions set out as notes under sections 886 and 1001 of this title, is popularly known as the "Elementary and Secondary Education Amendments of 1970".

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90-247, § 1, Jan. 2, 1968, 81 Stat 783, provided that: "This Act [enacting sections 241h-1, 844a, 844b, 847a, 877a to 877c, 880a to 880b-6, 887, 888, 1221, 1222, 1223, 1224, and 1225 of this title, amending sections 237 to 239, 241-1, 241a to 241h, 241h-1, 241i, 241j to 241m, 281, 331a, 591, 618, 633, 635, 644 to 646, 821, 822, 842 to 844, 845, 847, 848, 861 to 863, 865, 871 to 880, 881, 882, 883, 884, 885, 886, 1111, 1112, 11118, 1119, 1203 to 1206, and 1213 of this title, sections 2000d-5 and sections 2491 to 2494 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section and sections 237, 241, 241a, 241c, 640, and 862 of this title and section 1381 of Title 15, Commerce and Trade, and amending provisions set out as a note under section 241a of this title] may be cited as the 'Elementary and Secondary Education Amendments of 1967'."

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89-750, § 1, Nov. 3, 1966, 80 Stat. 1191, provided: "That this Act [enacting sections 241m, 871 to 880, 886, 1201 to 1211, 1212 and 1213 of this title and section 2000d-5 of Title 42, The Public Health and Welfare, amending sections 238, 240, 241, 241b, 241c, 241e, 241f, 241g, 241h, 241j, 241k, 241*l*, 242, 244, 281, 331a, 332a, 332b, 633 to 635, 640, 644, 645, 821, 822, 823, 841 to 844, 861 to 864, 867, 883, and 884 of this title, repealing section 241d of this title and sections 2801 to 2807 of title 42, and enacting provisions set out as notes under this section and sections 238, 241a, 241b, 241c, and 1201 of this title] may be cited as the 'Elementary and Secondary Education Amendments of 1966'."

SHORT TITLE

Pub. L. 89-10, § 1, Apr. 11, 1965, 79 Stat. 27, provided: "That this Act [which enacted provisions now contained in this chapter but originally classified to sections 241a et seq., 242 et seq., 331 et seq., 821 et seq., and 1801 et seq. of this title] may be cited as the 'Elementary and Secondary Education Act of 1965'."

SEPARABILITY OF PROVISIONS

Pub. L. 93-380, title VIII, § 846, Aug. 21, 1974, 88 Stat. 612, provided that if any provision of, or any amendment made by, titles I and IV of Pub. L. 93-380 were held invalid by reason of being inconsistent with the Constitution, all provisions of Pub. L. 93-380 [see Short Title of 1974 Amendment note above] and amendments made by Pub. L. 93-380 which were separable from such invalid provision or amendment should remain in effect, and that if any such provision or amendment were held invalid in one or more applications of such provision or amendment, such provision or amendment should remain in effect in all valid applications which were separable from any such application.

STUDY OF ALTERNATIVES FOR DEMONSTRATING COMPARABILITY OF SERVICES; PARTICIPATION, CRITERIA, ETC.

Section 102 of Pub. L. 95-561 provided that:

"(a) The Commissioner shall, not later than September 30, 1981, make a study of the feasibility and desirability of alternative criteria for demonstrating the comparability of services provided with State and local funds in each project area (as defined in section 198(12) of the Elementary and Secondary Education Act of 1965) [section 2854 of this title] to those provided outside such areas which ensure, at least to the same extent as the criteria in existing regulations published in the Federal Register (41 F.R. 42894 et seq., September 28, 1976), that children in each school serving such a project area receive comparable services paid for out of State and local funds.

"(b) The Commissioner may select all the local educational agencies in one State and not more than twenty such agencies in other States which are reasonably representative of the various geographical areas of the Nation for participation in the study provided for in this section. For purposes of the study, the Commissioner, without regard to section 431 of the General Education Provisions Act [section 1232 of this title], may permit the use of substitute criteria meeting the requirements of subsection (c) in place of criteria contained in existing regulations, to be applicable only for the school years 1979-1980 and 1980-1981 and only to local educational agencies selected to participate in the study.

"(c) Local educational agencies selected for participation in the study provided for in this section shall demonstrate comparability through the use of alternative criteria, which, at a minimum, meet the conditions of the following paragraphs:

"(1) Such criteria are approved by the districtwide advisory council established under section 125 of the Elementary and Secondary Education Act of 1965 [section 2735 of this title].

"(2) Based on such criteria, each school serving such a project area receives services comparable to those services provided with State and local funds in schools not receiving assistance under this title [this subchapter].

"(3) Services measured by such criteria shall vary by not more than 5 per centum between each school serving such a project area and other schools of the agency.

"(4) Compliance with such criteria shall be determined on the basis of services actually provided during the current school year.

"(5) If expenditures are used in the criteria, only expenditures for instructional services shall be included and for this purpose 'instructional services' means current expenditures for free public education other than expenditures for attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities.

"(6) In all other respects, such criteria shall be consistent with the regulations of the Commissioner pertaining to comparability of services.

"(d) In order to provide a basis for comparison, local educational agencies participating in the study under this section shall continue to make reports under existing criteria for comparability of services."

§ 2702. Duration of assistance

During the period beginning October 1, 1978, and ending September 30, 1983, the Commissioner shall, in accordance with the provisions of this subchapter, make payments to State educational agencies for grants made on the basis of entitlements created under this subchapter.

(Pub. L. 89-10, title I, § 102, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2153.)

Prior Provisions

Provisions similar to this section were contained in prior section 102 of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 202, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 27, which was classified to section 241b of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Part A—Programs Operated by Local Educational Agencies

Part Referred to in Other Sections

This part is referred to in sections 2811, 2853 of this title.

SUBPART 1—BASIC GRANTS

Subpart Referred to in Other Sections

This subpart is referred to in sections 2713, 2843, 2853 of this title.

§ 2711. Amount and eligibility for grants

(a) Amount of grants

(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under part E (other than payments under such part to jurisdictions excluded from the term "State" by this subsection, and payments pursuant to section 2791 of this title), and there is authorized to be appropriated such additional sums as will assure at least the same level of funding under this subchapter as in fiscal year 1976 for Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d) of this section. The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d) of this section, and (ii) to make payments pursuant to paragraph (2) of subsection (d) of this section. The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purpose of this subchapter.

(2)(A) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3) [1] be determined by multiplying the number of children counted under subsection (c) of this section by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (i) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (ii) if the average per pupil expenditure in the

---

[1] So in original. Probably should be followed by a closing parenthesis.

State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States.

(B) In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under subparagraph (A) for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Commissioner.

(C) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year (exclusive of any amount received under paragraph (3)(D)[1] shall be the amount arrived at by multiplying the number of children counted under subsection (c) of this section for Puerto Rico by the product of—

(i) the percentage determined under the preceding sentence, and

(ii) 32 per centum of the average per pupil expenditure in the United States.

(3)(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c) of this section, who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this subchapter.

(C) In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Commissioner for authority during any particular fiscal year to make the allocations under this part (other than section 2722 of this title) directly to local educational agencies without regard to the counties. If the Commissioner approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that such allocations will be made using precisely the same factors for determining a grant as are used under this part and that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Commissioner for a final determination.

(D)(i) From one-half of any amount made available for this subpart for any fiscal year in excess of the amount made available for this subpart for fiscal year 1979, there shall be allotted to each State an amount which bears the same ratio to such excess as the product of—

(I) the number of children in such State aged five to seventeen, inclusive, from families below 50 per centum of the median national income for four-person families from the 1975 survey of income and education conducted by the Bureau of the Census,

multiplied by—

(II) 40 per centum of the amount determined under the second sentence of pragraph[1] (2)(A) and, in the case of Puerto Rico, the product determined under subparagraph (C)(i) and (ii) of this paragraph.[2]

bears to the sum of such products for all the States.

(ii) In any case in which the Commissioner finds that a State's percentage decrease in children from low-income families exceeds 25 per centum between the 1970 decennial census, as adjusted, and the 1975 survey of income and education, the Commissioner shall allocate funds based on the most current valid data available or based on a resurvey of the affected State by the Bureau of the Census.

(iii) From the amount allotted to each State under division (i), the amount which each local educational agency in that State shall be eligible to receive under this subparagraph shall be an amount which bears the same ratio to the total amount allotted to such State under this subparagraph as the amount such local educational agency receives under paragraph (2) bears to the total amount of funds made available to local educational agencies in such State under such paragraph.

(E) From the remaining one-half of any amount made available for this subpart for any fiscal year in excess of the amount made available for this subpart for fiscal year 1979 after the application of subparagraph (D), there shall be allotted to each State an amount determined in accordance with paragraph (2) of this subsection.

(4) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mari-

---

[1] So in original. Probably should be followed by a closing parenthesis.

[1] So in original. Probably should be "paragraph".

[2] So in original. The period probably should be a comma.

ana Islands, and the Trust Territory of the Pacific Islands.

(b) Minimum number of children to qualify

A local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if it meets the following requirements with respect to the number of children counted under subsection (c) of this section:

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies or all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) Children to be counted

(1)(A) The number of children to be counted for purposes of this section, other than for subsection (a)(3)(D) of this section, is the aggregate of—

(i) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A),

(ii) the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), subject to subparagraph (B) of this paragraph, and

(iii) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part B for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

(B) For the purpose of division (ii) of subparagraph (A) of this paragraph the number of children aged five through seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B) shall be reduced by one-third for fiscal year 1979; except that such reduction shall not be applicable with respect to determinations made under section 2722(b) of this title of the number of children to be counted under this subsection.

(2)(A) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

(B) For purposes of this section, the Secretary shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act [42 U.S.C. 601 et seq.]; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(d) Program for Indian children

(1) From the amount alloted for payments to the Secretary of Interior under clause (B)(i) in the second sentence of subsection (a)(1) of this

section, the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this subchapter with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) of this section for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this subchapter. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of subpart 3 of this part and that the Department of the Interior will comply in all other respects with the requirements of this subchapter, and (B) provision for carrying out the applicable provisions of subpart 3 of this part and sections 2821 and 2822 of this title.

(Pub. L. 89-10, title I, § 111, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2153, and amended Pub. L. 96-88, title V, § 508(k), Oct. 17, 1979, 93 Stat. 694.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(2)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title IV of the Social Security Act is classified generally to subchapter IV (§ 601 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in a prior section 103 of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 203, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 28, which was classified to section 241c of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

AMENDMENTS

1979—Subsec. (c)(2)(B). Pub. L. 96-88 added provision requiring the Secretary of Health and Human Services to collect the information required by subpar. (B).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-88 effective 180 days after the first Secretary takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

1980 DECENNIAL CENSUS DATA; PREPARATION, AVAILABILITY, ETC.

Section 1521 of Pub. L. 95-561 provided that: "For the purpose of establishing a reliable statistical basis for the rendering of determinations under section 111(c) of the Elementary and Secondary Education Act of 1965 [subsec. (c) of this section], and for other purposes, the Secretary of Commerce shall take such steps as may be necessary to ensure that data developed from the 1980 decennial census will be available to the Secretary of Health, Education, and Welfare [now Secretary of Education] and to the Commissioner of Education [now Secretary of Education] identifying data for children under 18 years of age, by single year of age, for school districts. Such data shall relate to the family characteristics of these children, including income, education, and such other family characteristics as may be appropriate and available from the decennial census."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087ee, 2721, 2722, 2734, 2752, 2843, 2853, 3223 of this title.

§ 2712. Treatment of earnings for purposes of aid to families with dependent children

Notwithstanding the provisions of title IV of the Social Security Act [42 U.S.C. 601 et seq.], a State plan approved under section 402 of such Act [42 U.S.C. 602] shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this subchapter of this chapter shall not be regarded (1) in determining the need of such person under such approved State plan or (2) in determining the need for any other individual under such approved State plan.

(Pub. L. 89-10, title I, § 112, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2158.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title IV of the Social Security Act is classified generally to subchapter IV (§ 601 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in a prior section 149 of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 213, as added Nov. 3, 1966, Pub. L. 89-750, title I, § 109, 80 Stat. 1195, which was classified to section 241m of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

§ 2713. Authorization of appropriations; assistance of otherwise lower fiscal year allotment levels

There is authorized to be appropriated for each fiscal year a sum not to exceed $15,700,000 to be allocated at the discretion of the Commissioner to assist those local education agencies whose total allocation under subpart I of part A, and part B, of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2711 et seq., 2761 et seq.] is 90 per centum or less than such allocation under such subpart or part during the preceding fiscal year.

(Pub. L. 93-380, title I, § 101(a)(10), Aug. 21, 1974, 88 Stat. 501; Pub. L. 95-561, title I, § 101(d), Nov. 1, 1978, 92 Stat. 2200.)

References in Text

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2153. Subpart I of part A of title I of the Elementary and Secondary Education Act of 1965 is classified generally to this subpart. Part B of title I of the Elementary and Secondary Education Act of 1965 is classified generally to part B (§ 2761 et seq.) of this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

Codification

Section was enacted as part of Education Amendments of 1974, and not as part of Title I of Elementary and Secondary Education Act of 1965 which comprises this subchapter.

Section was formerly classified to section 241b-1 of this title.

Amendments

1978—Pub. L. 95-561 substituted "subpart 1 of part A, and part B," for "part A" and "such subpart or part" for "such part A".

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 2—SPECIAL GRANTS

Subpart Referred to in Other Sections

This subpart is referred to in section 2843 of this title.

§ 2721. Special incentive grants

(a) Eligibility

(1) Each local educational agency that is eligible to receive a payment under section 2711 of this title for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if it is located in a State which has in effect for that fiscal year a State program meeting the requirements of paragraph (2) under which financial assistance is provided to meet the special education needs of educationally deprived children.

(2) A State program meets the requirements of this subsection if, under State law—

(A) the program meets the requirements of section 2751(c) of this title; and

(B) not less than 50 per centum of the funds expanded[1] under the program in any school district of any local educational agency in the State in the fiscal year preceding any fiscal year in which the State receives a payment under this subpart is expended in school attendance areas of such agencies having high concentrations of children from low-income families.

(b) Amount of grants

(1) Except as provided in paragraph (3), the aggregate amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be 50 per centum of the amount of State funds expended, in the most recent fiscal year for which data are available, under a State program meeting the requirements of paragraph (2) of subsection (a) of this section.

(2) The amount of the additional grant for each local educational agency in a State under this section for any fiscal year shall bear the same ratio to the amount allocated to such State under subsection (c) of this section as the amount allocated to such local educational agency under section 2711 of this title for such fiscal year bears to the aggregate amount allocated to all local educational agencies in the State under section 2711 of this title for such fiscal year.

(3) The aggregate amount which the local educational agencies in a State shall be eligible to receive under this section for any fiscal year shall not exceed 10 per centum of the aggregate amount which all local educational agencies in such State are eligible to receive under section 2711 of this title for such fiscal year.

(4) Each State which desires to receive payments under this section shall develop a system for determining the data required by subparagraph (2)(B) of subsection (a) of this section relating to the percentage of State funds expended in school attendance areas having high concentrations of children from low-income families and required by paragraph (1) of this subsection relating to the amount of State funds expended under the State program referred to in that paragraph. The State shall submit to the Commissioner such information as the Commissioner may request concerning that system.

(c) Payments; use of funds

(1) Except as provided in paragraph (3), the Commissioner shall pay to each State for each fiscal year the aggregate amount to which the local educational agencies in such State are entitled under subsection (b) of this section after any ratable reductions under subsection (d) of this section.

(2) The total amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be added to the amount paid to such State under section 2841 of this title for such year. From the amount paid to it under this subsection, the State shall distribute to each local educational agency of the State the amount of its additional grant as determined under subsection (b)(2) of this section.

---

[1] So in original. Probably should be "expended".

(3) Whenever the expenditures made by a State in accordance with subsection (a) of this section in a fiscal year equal or exceed expenditures in the preceding fiscal year, the amount paid to such State under this section shall, subject to subsection (d) of this section, not be less than the amount paid to such State under this section in the preceding fiscal year, and the total of any increases required under this paragraph shall be derived by proportionately reducing the amount paid to States which were not entitled to a payment under this section in the preceding fiscal year, except that the amount paid to a State under this section for any fiscal year shall not exceed the maximum amount to which such State is entitled for such fiscal year under paragraph (1) of subsection (b) of this section.

(4) The amount paid to a local educational agency under this part shall be used by such agency for activities undertaken pursuant to its application submitted under section 2731 of this title and shall be subject to all other requirements in subpart 3 of this part.

(d) Ratable reductions

If the sums appropriated pursuant to subsection (e) of this section for a fiscal year are not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under this section, the amount to be paid such agencies shall be ratably reduced to the extent necessary to bring such payments within the limits of the amounts so appropriated. In case additional funds become available for making payments under this section for that year, such reduced amounts shall be increased on the same basis that they were reduced.

(e) Appropriations

There are authorized to be appropriated for the purposes of this section such sums as may be necessary for fiscal year 1980 and for the three succeeding fiscal years.

(Pub. L. 89-10, title I, § 116, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2158, and amended Pub. L. 96-46, § 1(1), Aug. 6, 1979, 93 Stat. 338.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 126 et seq. of act Sept. 30, 1950, ch. 1124, title II, as added Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(6), 84 Stat. 126, which was classified to section 241d et seq. of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

AMENDMENTS

1979—Subsec. (b)(2). Pub. L. 96-46 substituted "subsection (c) of this section" for "subsection (o) of this section".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2722. Grants for local educational agencies in counties with especially high concentrations of children from low-income families

(a) Purpose

It is the purpose of this section to provide additional assistance to local educational agencies in counties with especially high concentrations of children from low-income families to enable local educational agencies in such counties to provide more effective programs of instruction, especially in the basic skills of reading, writing, and mathematics, to meet the special educational needs of educationally deprived children.

(b) Eligibility for and amount of special grants

(1) Each county, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this subchapter for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—

(A) the number of children counted under section 2711(c) of this title for local educational agencies in such county for the preceding fiscal year exceeds five thousand, or

(B) the number of children counted under section 2711(c) of this title exceeds 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county in that fiscal year,

except that no such State shall receive less than one-quarter of 1 per centum of the sums appropriated under subsection (d) of this section for such section for such fiscal year.

(2) For each county in which there are local educational agencies eligible to receive an additional grant under this section for any fiscal year the Commissioner shall determine the product of—

(A) the number of children in excess of five thousand counted under section 2711(c) of this title for the preceding fiscal year or the number of children counted under that section in excess of 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county for that preceding fiscal year, whichever is greater, and

(B) the quotient resulting from the division of the amount determined for those agencies under section 2711(a)(2) of this title for the fiscal year for which the determination is being made divided by the total number of children counted under section 2711(c) of this title for that agency for the preceding fiscal year.

(3) The amount of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount appropriated under subsection (d) of this section for that fiscal year as the product determined under paragraph (2) for such county for that

fiscal year bears to the sum of such products for all counties in the United States for that fiscal year.

(4) For the purposes of this section, the Commissioner shall determine the number of children counted under section 2711(c) of this title for any county, and the total number of children aged five to seventeen, inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the entitlement for such county is determined under section 2711 of this title.

(5) Funds allocated to counties under this part shall be allocated by the State educational agency, pursuant to regulations established by the Commissioner, among the several local educational agencies whose school districts lie (in whole or in part) within the county on the basis of the current distribution in the county of children aged five to seventeen, inclusive, from low-income families (using a poverty level selected by the State educational agency consistent with the purposes of this subchapter) as determined on the basis of the available data which such State educational agency determines best to reflect the current distribution in the county of children aged five to seventeen, inclusive, from low-income families, except that in determining the number of such children in any local educational agency in which less than 20 per centum of the children are from low-income families, each such child shall be counted as a fraction in which the numerator is the percentage of low-income children in the school district of that agency and the denominator is 20.

(c) Payments; use of funds

(1) The total amount to which the counties in a State are entitled under this section for any fiscal year shall be added to the amount paid to that State under section 2841 of this title for such year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which it is entitled under this section.

(2) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 2731 of this title and shall be subject to the other requirements in subpart 3 of this part.

(d) Appropriations

There are authorized to be appropriated for the purposes of this section $400,000,000 for fiscal year 1979, and such sums as may be necessary for each of the four succeeding fiscal years.

(Pub. L. 89-10, title I, § 117, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2159.)

Prior Provisions

Provisions similar to this section were contained in prior section 126 et seq. of act Sept. 30, 1950, ch. 1124, title II, formerly § 121, as added Apr. 13, 1970, Pub. L. 91-230, title I, § 113(b)(6), 84 Stat. 126, which was classified to section 241d et seq. of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in section 2711 of this title.

SUBPART 3—PROGRAM REQUIREMENTS AND APPLICATIONS

Subpart Referred to in Other Sections

This subpart is referred to in sections 2711, 2721, 2722, 2754, 2762, 2782, 2816 of this title.

§ 2731. Local program application

A local educational agency may receive a grant under this subchapter for any fiscal year if it has on file with the State educational agency a current application, approved by the State educational agency, describing the programs and projects to be conducted with assistance provided under this subchapter for a period of not to exceed three fiscal years, including the fiscal year for which the grant is to be made. Such an application may be amended at any time to describe changes in or additions to the activities originally set forth in the application. An application or amendment thereto shall be approved by the State educational agency upon its determination that the application provides for the use of such funds in a manner which meets the requirements of this subpart and is consistent with the assurances contained in the general application required by section 1232e of this title, subject to such basic criteria as the Commissioner may prescribe.

(Pub. L. 89-10, title I, § 121, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2161.)

Prior Provisions

Provisions similar to this section were contained in prior section 141(a) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 205, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 30, which was classified to section 241e(a) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 2721, 2722, 2842 of this title.

§ 2732. Designating school attendance areas

(a) General provisions

(1) Except as provided in paragraph (2) and subsections (b), (c), (d), and (e) of this section, a local educational agency shall use funds received under this subchapter in school attend-

ance areas having high concentrations of children from low-income families (hereinafter referred to as "eligible school attendance areas"), and where funds under this subchapter are insufficient to provide programs and projects for all educationally deprived children in eligible school attendance areas, a local educational agency shall annually rank its eligible school attendance areas from highest to lowest, according to relative degree of concentration of children from low-income families. A local educational agency may carry on a program or project assisted under this subchapter in an eligible school attendance area only if it also carries on such program or project in all other eligible school attendance areas which are ranked higher under the first sentence. A local educational agency may designate any school attendance area in which at least 25 per centum of the children are from low-income families as an eligible school attendance area if the aggregate amount expended under this subchapter and under a State program meeting the requirements of section 2751(c) of this title in that fiscal year in each school attendance area of that agency in which projects assisted under this subchapter were carried out in the preceding fiscal year equals or exceeds the amount expended from those sources in that area in such preceding fiscal year. The same measure of low income, which shall be chosen by the local educational agency and which may be a composite of several indicators, shall be used with respect to all such areas, both to identify the areas having high concentrations of children from low-income families and to determine the ranking of each area.

(2)(A) Notwithstanding the provisions of paragraph (1), in the selection of eligible school attendance areas, a local educational agency may, subject to the requirements of subparagraph (B), choose to rank all its school attendance areas as provided in paragraph (1) and also rank all its school attendance areas according to educational deprivation, and then serve all its school attendance areas ranked according to paragraph (1) in the order of their ranking under such paragraph unless another school attendance area ranked according to education deprivation has a substantially greater number or a substantially greater percentage of educationally deprived children, in which case such school attendance area may be served before service is provided to other school attendance areas ranked pursuant to paragraph (1) which have a substantially smaller number or substantially smaller percentage of educationally deprived children. In the event that a local educational agency chooses to exercise the option provided under this paragraph, it shall not serve any more school attendance areas than the number identified pursuant to paragraph (1).

(B) Any local educational agency desiring to use the alternative ranking system described in subparagraph (A) shall, with the consent of the district-wide parent advisory council of that agency, apply for permission to use such system to the State educational agency of the State wherein such local educational agency is located. Such application shall be approved by such State educational agency only if such State educational agency finds that the use of such alternative ranking system will not substantially impair the delivery of compensatory education services to educationally deprived children from low-income families in project areas served by such local educational agency. Whenever a school district exercises the option under this paragraph and actually serves one or more school attendance areas ranked under this paragraph, none of the areas so ranked but not served shall be considered to be eligible school attendance areas under this subchapter.

(b) Use of enrollment data in certain schools

A local educational agency may use funds received under this subchapter for educationally deprived children who are in a school of such agency which is not located in an eligible school attendance area, but at which the proportion of children in actual average daily attendance who are from low-income families is substantially the same as the proportion of such children in such an area of that agency (hereinafter referred to as an "eligible school").

(c) Continuation of eligibility for certain school attendance areas or schools

An eligible school attendance area or an eligible school may be designated a project area under subsection (a) of this section or a project school under subsection (b) of this section for a fiscal year, even though it does not qualify under such subsections for that fiscal year, if such area or school was so designated in either of the two preceding fiscal years.

(d) Lower ranked school attendance areas or schools having substantially greater incidences of educationally deprived children than higher ranked areas or schools

The Commissioner shall issue regulations providing for an exception to subsection (a) of this section permitting children in lower ranked eligible school attendance areas or eligible schools having substantially greater incidences of educational deprivation than areas or schools ranked higher under subsections (a) or (b) of this section to receive assistance before such children in higher ranked areas or schools receive such assistance.

(e) Skipping higher ranked school attendance areas or schools receiving services of the same nature and scope from non-Federal sources

The Commissioner shall issue regulations providing for an exception to subsection (a) or (b) of this section permitting local educational agencies to skip higher ranked eligible school attendance areas or eligible schools receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this subchapter. Whenever children residing in eligible areas and attending private elementary and secondary schools are ineligible for services of the same nature and scope from non-Federal sources, such children shall be selected for programs and projects under this subchapter without regard to the provisions of this subsection. The number of children receiving services under this subchapter who attend private elementary and secondary schools shall be determined in each local educational agency receiving assistance under this subchapter without regard to non-Federal compensatory education funds which serve children in public elementary and secondary schools who are also eligible for assistance under this subchapter. Children attending private elementary and secondary schools who receive assistance under this subchapter shall be identified in accordance with this section and without regard to skipping higher ranked school attendance areas or schools receiving services of the same nature and scope from non-Federal sources.

(Pub. L. 89-10, title I, § 122, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2161.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 141(a)(1)(A) and (a)(13) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 205, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 30, which was classified to section 241e(a)(1)(A) and (a)(13) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2733, 2740, 2762, 2772, 2782 of this title.

§ 2733. Children to be served

(a) General provisions

Except as provided in subsections (b), (c), and (d) of this section and section 2753 of this title, a local educational agency must use funds received under this subchapter for educationally deprived children, identified in accordance with section 2734(b) of this title as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 2732 of this title.

(b) Continuation of eligibility for educationally deprived children who are no longer in greatest need of assistance

Whenever for a fiscal year, an educationally deprived child in a school attendance area or school satisfying the requirements of section 2732 of this title, does not meet the requirement of subsection (a) of this section requiring that he be in greatest need of special assistance, but did meet such requirement in any previous year, and is still educationally deprived, that child may participate in a program or project assisted under this subchapter for the current fiscal year.

(c) Continuation of eligibility for educationally deprived children transferred to ineligible areas or schools in the same year

Educationally deprived children who begin participation in a program or project assisted under this subchapter, in accordance with subsections (a) and (b) of this section but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this subchapter, may, if the local agency so determines, continue to participate in a program or project funded under this subchapter for the duration of that same school year.

(d) Skipping children determined to be in greatest need of assistance who are receiving services of the same nature and scope from non-Federal sources

The Commissioner shall issue regulations providing for an exemption to subsection (a) of this section permitting local educational agencies, in providing services under this subchapter, to skip educationally deprived children in greatest need of assistance who are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this subchapter.

(Pub. L. 89-10, title I, § 123, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2163, and amended Pub. L. 96-46, § 1(2), Aug. 6, 1979, 93 Stat. 338.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 141(a)(1)(A) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 205, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 30, which was classified to section 241e(a)(1)(A) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-46 substituted "but did meet" for "but did not meet".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2734, 2740, 2762, 2772, 2782 of this title.

§ 2734. Requirements for design and implementation of programs

(a) Purpose of program

A local educational agency may use funds received under this subchapter only for programs and projects which are designed to meet the special educational needs of the children referred to in section 2733 of this title. Such programs and projects may include the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas, the training of teachers, and, where necessary, the construction of school facilities, and planning for such programs and projects.

(b) Assessment of educational need

A local educational agency may receive funds under this subchapter only if it makes an assessment of educational needs each year to (1) identify educationally deprived children in all eligible attendance areas and to select those educationally deprived children who have the greatest need for special assistance; (2) identify the general instructional areas on which the program will focus; and (3) determine the special educational needs of participating children with specificity sufficient to facilitate development of high-quality programs and projects.

(c) Planning

A local educational agency may use funds received under this subchapter for planning only if (1) the planning relates directly to programs or projects to be assisted under this subchapter and has resulted, or is reasonably likely to result, in a program or project to be assisted under this subchapter, and (2) such funds are needed because of the innovative nature of the program or project or because such agency lacks the resources necessary to plan adequately for programs and projects to be assisted under this subchapter. The amount a local educational agency may use for plans for any fiscal year may not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 2711 of this title or $2,000, whichever is greater.

(d) Sufficient size, scope, and quality

A local educational agency may use funds received under this subchapter only for programs and projects which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served, and to this end such programs and projects must involve an expenditure of not less than $2,500, except that a State educational agency may reduce such $2,500 requirement for a local educational agency if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for such local educational agency to join effectively with other local educational agencies for the purpose of meeting the requirement.

(e) Expenditures related to ranking of project areas and schools

A local educational agency may receive funds under this subchapter only if such funds are allocated among project areas or schools for programs and projects assisted under this subchapter on the basis of the number and needs of children to be served as determined in accordance with section 2733 of this title.

(f) Coordination with other programs

(1) A local educational agency may receive funds under this subchapter only if it demonstrates that, in the development of its application, it has taken into consideration benefits and services which are or may be available through other public and private agencies, organizations, or individuals. The local educational agency shall also demonstrate that in order to avoid duplication of effort and to ensure that all programs and projects complement each other, it has considered suggestions and offers of assistance made by other agencies which may aid in carrying out or making more effective the program or project for which the application is made.

(2) A local educational agency may use funds received under this subchapter for health, social, or nutrition services for participating children under this subchapter only if such agency has requested from the State educational agency assistance in locating and utilizing other Federal and State programs to provide such services.

(g) Evaluations

A local educational agency may receive funds under this subchapter only if—

(1) effective procedures are adopted for evaluating, in accordance with the evaluation schedule promulgated by the Commissioner under section 2833(b) of this title, the effectiveness of the programs assisted under this subchapter in meeting the special educational needs of educationally deprived children;

(2) such evaluations will include, during each three-year period, the collection and analysis of data relating to the degree to which programs assisted under this subchapter have achieved their goals, including the requirements of section 2740 of this title, and will also include objective measurements of educational achievement in basic skills over at least a twelve-month period in order to determine whether regular school year programs have sustained effects over the summer; and

(3) the evaluation will address the purposes of the programs, including the requirements of section 2740 of this title, and the results of the evaluations will be utilized in planning for and improving projects and activities carried out under this subchapter in subsequent years.

(h) Information dissemination

A local educational agency may receive funds under this subchapter only if effective procedures are in existence for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

(i) Teacher and school board participation

A local educational agency may receive funds under this subchapter only if teachers in schools participating in programs assisted under this subchapter, and school boards or comparable authority responsible to the public with jurisdiction over the schools, have been involved in planning for those programs and will be involved in the evaluation thereof.

(j) Parent participation

A local educational agency may receive funds under this subchapter only if parents of children participating in programs assisted under this subchapter are permitted to participate in the establishment of such programs and are informed of, and permitted to make recommendations with respect to, the instructional goals of the program and the progress of their children in such program, and such parents are afforded opportunities to assist their children in achieving such goals.

(k) Sustaining gains

A local educational agency may receive funds under this subchapter only if, in developing programs to be assisted under this subchapter, the local educational agency will give due consideration to the inclusion of components designed to sustain the achievements of children beyond the school year in which the program is conducted, through such means as summer programs and intermediate and secondary level programs.

(*l*) Training of education aides

A local educational agency may receive funds under this subchapter for programs and projects involving education aides, including volunteers, only if it has in effect well-developed plans providing for coordinated programs of training in which education aides, including volunteers, and the professional staff whom they are assisting will participate together.

(m) Control of funds

A local educational agency may receive funds under this subchapter only if control of such funds, and title to property derived therefrom, is in a public agency for the uses and purposes provided in this subchapter, and only if a public agency will administer such funds and property.

(n) Construction

A local educational agency may use funds received under this subchapter for projects for construction of school facilities only if—

(1) the project is not inconsistent with overall State plans for the construction of school facilities and the requirements of section 1232b of this title are complied with on all such projects,

(2) in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to ensure that facilities constructed with the use of Federal funds under this subchapter are, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by, handicapped persons, and

(3) in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and inclusion of works of art (not representing more than 1 per centum of the cost of the project).

(*o*) Jointly operated programs

Two or more local educational agencies may, at their option, enter into an agreement for carrying out jointly operated programs and projects assisted under this subchapter.

(Pub. L. 89-10, title I, § 124, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2164, and amended Pub. L. 96-46, § 1(3), Aug. 6, 1979, 93 Stat. 338.)

Prior Provisions

Provisions similar to this section were contained in prior section 141(a)(1), (2), (3), (6), and (10) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 205, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 30, which was classified to section 241e(a)(1), (2), (3), (6), and (10) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

Amendments

1979—Subsec. (g)(1). Pub. L. 96-46 substituted "section 2833(b) of this title" for "section 2833(g) of this title".

Effective Date of 1979 Amendment

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 2733, 2736, 2740, 2811, 2822, 2833 of this title.

§ 2735. Parental involvement

(a) Establishment of advisory councils

(1) A local educational agency may receive funds under this subchapter only if it establishes an advisory council for its entire school district which—

(A) has a majority of members who are parents of children to be served by projects assisted under this subchapter, who shall either be (i) elected by the project area or school advisory councils required to be established by paragraph (2)(A) of this subsection, or (ii) elected by the parents in such areas;

(B) includes such additional members as may be (i) elected by the project area or school advisory councils required to be established by paragraph (2)(A) of this subsection, or (ii) elected by the parents in such areas;

(C) includes representatives of children and schools eligible to be served by, but not currently participating in, programs assisted with funds provided under this subchapter, who shall be elected by the parents in such areas; and

(D) is established in accordance with regulations to be issued by the Commissioner which provide alternative models to carry out subparagraphs (A) through (C) of this paragraph.

(2)(A) A local educational agency may receive funds under this subchapter only if it establishes an advisory council for each project area or project school, except as provided in subparagraph (B), which—

(i) has a majority of members who are parents of children to be served by programs assisted under this subchapter, and

(ii) is composed of members elected by the parents in each project area or project school.

(B) In the case of any project area or project school in which not more than one full-time equivalent staff member is paid with funds provided under this subchapter, and in which not more than forty students participate in such programs, the requirements of subparagraph (A) shall be waived.

(C) In the case of any project area or project school in which 75 or more students are served by programs assisted by funds provided under this subchapter, each such project area or project school advisory council, in addition to meeting the requirements of subparagraph (A), shall—

(i) be composed of not less than 8 members, who shall serve for terms of two years, after which time they may be re-elected;

(ii) elect officers of the council after it has been fully constituted; and

(iii) meet a sufficient number of times per year, according to a schedule and at locations to be determined by such council.

(3) Any individual who is a teacher at a school serving a project area or is a parent of a child residing in an eligible school attendance area or attending an eligible school shall be eligible to be elected as a member of the district-wide advisory councils established pursuant to paragraph (1), but nothing in this sentence shall preclude the eligibility of other individuals who are residents in that district. No individual who is a teacher at a project school or a school serving a project area shall be ineligible to be elected as a member of a district-wide or project area or school advisory council on the basis of residency outside such area or district.

(b) Responsibilities of advisory councils

Each local educational agency shall give each advisory council which it establishes under subsection (a) of this section responsibility for advising it in planning for, and implementation and evaluation of, its programs and projects assisted under this subchapter.

(c) Access to information

(1) Each local educational agency shall provide without charge to each advisory council established by such an agency under subsection (a) of this section, and, upon request, to each member of such advisory council—

(A) a copy of the text of this subchapter,

(B) a copy of any Federal regulations and guidelines issued under such subchapter; and

(C) a copy of appropriate State regulations and guidelines associated with this subchapter.

(2) Each State educational agency shall provide a copy of any report resulting from State or Federal auditing, monitoring, or evaluation activities in any district to the parent advisory council established pursuant to subsection (a)(1) of this section in such district.

(d) Training programs

Each local educational agency application for funding under this subchapter shall describe a program for training the members of advisory councils established pursuant to subsection (a) of this section to carry out their responsibilities as described in subsection (b) of this section. Such training program—

(1) shall be planned in full consultation with the members of such advisory councils;

(2) shall provide each member of each such council with appropriate training materials; and

(3) may permit the use of funds under this subchapter for expenses associated with such training, including expenses associated with the attendance of such members at training sessions.

(e) Workshops on parental involvement

For each fiscal year for which payments are made to State educational agencies under this subchapter, the Commissioner shall sponsor workshops in the several regions of the United States which shall be designed to assist local educational agencies to work with and provide training to parent advisory councils established under subsection (a) of this section and to facilitate parental involvement in the programs conducted under this subchapter. The workshops shall be planned and conducted in consultation with members of parent advisory councils in the region served by the workshop.

(f) Assessment of parental involvement and training

The National Institute of Education shall assess the effectiveness of (1) various forms of parental involvement, including parent advisory councils, on school governance, student achievement, and other purposes of this subchapter, and (2) various methods of training the members of parent advisory councils, and shall report the results of such assessments to the Congress and the public.

(g) Authorization of appropriations

There are authorized to be appropriated for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, such sums as may be necessary to carry out the provisions of subsections (e) and (f) of this section.

(Pub. L. 89-10, title I, § 125, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2167, and amended Pub. L. 96-46, § 1(4), (5), Aug. 6, 1979, 93 Stat. 338.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 141(a)(14) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 205, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 30, which was classified to section 241e(a)(14) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-46, § 1(4), added provisions requiring election by the project area or school advisory council or by the parents in such area, and provided for establishment of advisory councils in accordance with regulations to be issued by the Commissioner which make provision for alternative models.

Subsec. (c)(1). Pub. L. 96-46, § 1(5), substituted "each advisory council established by such an agency under subsection (a) of this section, and, upon request, to each member of such advisory council" for "each member of an advisory council established by such an agency under subsection (a) of this section" in the provisions preceding subpar. (A).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2753, 2762, 2772, 2782, 2837 of this title.

§ 2736. Funds allocation

(a) Maintenance of effort

(1) Except as provided in paragraph (2), a local educational agency may receive funds under this subchapter for any fiscal year only if the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year.

(2) The Commissioner may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional and unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. In any case in which a waiver under this paragraph is granted, the Commissioner shall reduce the amount of Federal payment for the program affected for the current fiscal year in the exact proportion to which the amount expended (either on an average per pupil or aggregate basis) was less than the amount required by paragraph (1). No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort required, under paragraph (1), for years subsequent to the year covered by such waiver. Such fiscal effort shall be computed on the basis of the level of funding which would, but for such waiver, have been required.

(3) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

(b) Use of funds limited to excess costs

Subject to the provisions of section 2751 of this title, a local educational agency may use funds received under this subchapter only for the excess costs of programs and projects referred to in section 2734(a) of this title. As used in this subsection, the term "excess costs" means costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects.

(c) Federal funds to supplement, not supplant regular non-Federal funds

A local educational agency may use funds received under this subchapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from regular non-Federal sources and from non-Federal sources for State phase-in programs described in section 2751(b) of this title for the education of pupils participating in programs and projects assisted under this subchapter, and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

(d) Federal funds required to supplement, not supplant non-Federal funds for certain special State and local programs

(1) Subject to section 2752 of this title, a local educational agency may use funds received under this subchapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for each of the special programs described in subsection (b) of section 2751 of this title for the education of educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools and in no case, as to supplant such funds from non-Federal sources.

(2) It shall not be considered a violation of this subsection for a local educational agency, in carrying out a special program described in subsection (b) of section 2751 of this title, to take into consideration funds made available under this subchapter, and to coordinate such special programs with programs using such Federal funds, provided that educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools, receive at least the same level of such special State and local funds that would have been made available to such children in the absence of funds under this subchapter.

(3) For purposes of this subsection, the level of funds that, in the absence of funds under this subchapter would have been made available to such children shall be determined by reference to a plan for distributing such special funds. Such plan shall be based on objective criteria of need that do not discriminate against educationally deprived children, in the aggregate in eligible school attendance areas or attending eligible schools. The objective criteria chosen by the local educational agency shall prescribe, with particularity, the children as well as the schools, grade-spans, or school attendance areas eligible for assistance and the method for selecting the particular children who will receive assistance under such special State or local program and the schools or grade-spans which such children attend or the school attendance areas in which such children reside. The criteria for selecting children, schools, grade-spans, and school attendance areas for participation shall be either educational need, a reasonable proxy for educational need, level of poverty, or a combination of such factors. Educationally deprived children residing in eligible school attendance areas or attending eligible schools, satisfying such object criteria, must receive assistance under either this subchapter or under such special State or local program before any child who does not satisfy such criteria receives such assistance.

(e) Comparability of services

Subject to the provisions of section 2751 of this title a local educational agency may receive funds under this subchapter only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this subchapter. Where, under regulations of the Commissioner, all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable, in accordance with regulations of the Commissioner, in each project area. Each local educational agency shall report on or before July 1 of each year with respect to its compliance with this subsection, except for local educational agencies which were not required to report on November 1, 1978, unless the Commissioner otherwise provides by regulation.

(Pub. L. 89-10, title I, § 126, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2168.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior sections 141(a)(1), (3) and 143(c)(2) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, §§ 205, 207, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 30, 32, which were classified to sections 241e(a)(1), (3) and 241g(c)(2) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2737, 2740, 2751, 2752, 2762, 2772, 2782 of this title.

§ 2737. Accountability

(a) Recordkeeping

Each local educational agency which receives funds under this subchapter shall keep such records and afford such access thereto as the State educational agency shall prescribe, including records which fully disclose the amount and disposition of such funds, the total cost of programs and projects in connection with which such funds are used, the amount of the portion of the cost of the program or project supplied by other sources, and such other records as will facilitate an effective audit. Whenever a local educational agency carries on a single compensatory education program paid for out of funds under this subchapter as well as State or local funds which meets all of the requirements of this subchapter and whenever, under section 2751 of this title, the local educational agency excludes expenditures from State and local sources in determining compliance with section 2736(b) and (e) of this title, the State educational agency need not require the Federal funds to be accounted for separately. In any proceeding, State or Federal, for the recoupment of any such funds which were misspent or misapplied, the percentage of the funds so misspent or misapplied which shall be deemed to be Federal funds shall be equal to the percentage of the funds used, or intended for use, for the program or project which were Federal funds.

(b) Reporting

Each local educational agency which receives funds under this subchapter shall make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this subchapter, including information relating to the educational achievement of students participating in programs and projects assisted under this subchapter.

(c) Access to information

Each local educational agency which applies for or receives funds under this subchapter shall make the application and all pertinent documents related thereto available to parents, teachers, and other members of the general public.

(Pub. L. 89-10, title I, § 127, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2170.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 141(a)(8) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 205, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 30, which was classified to section 241e(a)(8) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

§ 2738. Complaint resolution

Each local educational agency which receives funds under this subchapter shall develop and implement, in accordance with criteria prescribed by the Commissioner, written procedures for the resolution of complaints made to that agency by parent advisory councils, parents, teachers, or other concerned organizations or individuals concerning violations of this subchapter, or of applicable provisions of the General Education Provisions Act [20 U.S.C. 1221 et seq.] in connection with programs under this subchapter. Such procedures shall—

(1) provide specific time limits for investigation and resolution of complaints, which shall not exceed thirty days unless a longer period of time is provided by the State educational agency due to exceptional circumstances in accordance with regulations established by the Commissioner;

(2) provide an opportunity for the complainant or the complainant's representative, or both, to present evidence, including an opportunity to question parties involved;

(3) provide the right to appeal the final resolution of the local educational agency to the

State educational agency within thirty days after receipt of the written decision; and

(4) provide for the dissemination of information concerning these procedures to interested parties, including all district and school parent advisory councils.

(Pub. L. 89-10, title I, § 128, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2171.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in text, is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2739. Individualized plans

It is the intent of the Congress to encourage, whenever feasible, the development for each educationally deprived child participating in a program under this subchapter of an individualized educational plan (maintained and periodically evaluated), agreed upon jointly by the local educational agency, the teacher, a parent or guardian of the child, and, when appropriate, the child.

(Pub. L. 89-10, title I, § 129, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2171.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 141(b) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 205, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 30, which was classified to section 241e(b) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

§ 2740. Participation of children enrolled in private schools

(a) General requirements

To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of sections 2732 and 2733 of this title, and subsections (a), (b), (d), and (m) of section 2734 of this title, and subsection (c) of section 2736 of this title. Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

(b) By-pass provision

(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a) of this section, the Commissioner shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a) of this section.

(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a) of this section, he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a) of this section, upon which determination the provisions of subsection (a) of this section shall be waived.

(3)(A) When the Commissioner arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this subchapter.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of such services.

(C) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a) of this section.

(4)(A) The Commissioner shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why such action should not be taken.

(B) If a State or local educational agency is dissatisfied with the Commissioner's final action after a proceeding under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28.

(C) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 89-10, title I, § 130, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2171, and amended Pub. L. 96-46, § 1(6), Aug. 6, 1979, 93 Stat. 338.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 141A of act Sept. 30, 1950, ch. 1124, title II, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(6), 88 Stat. 497, which was classified to section 241e-1 of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-46 substituted "and (m)" for "and (*l*)".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2734, 2821, 2902 of this title.

SUBPART 4—EXEMPTIONS FROM CERTAIN PROGRAM REQUIREMENTS

§ 2751. Exclusions from excess costs and comparability provisions for certain special State and local programs

(a) In general

For the purpose of determining compliance with the requirement of section 2736(b) of this title (relating to use of funds only for excess costs of programs and projects) and of section 2736(e) of this title (relating to comparability of services), a local educational agency may, at its option, exclude State and local funds expended for carrying out a special program or a State phase-in program.

(b) Special program and State phase-in program defined

For purposes of this section—

(1) a special program is limited to—

(A) a State compensatory education program which the Commissioner has determined in advance under subsection (e) of this section meets the requirements of subsection (c) of this section and which the State educational agency determines is being implemented by the local educational agency in accordance with subsection (c) of this section;

(B) a State compensatory education program which the Commissioner has determined in advance under subsection (e) of this section does not satisfy the requirements of subsection (c) of this section, but which he has determined permits the local educational agency, at its option, to use such special State funds in accordance with subsection (c) of this section, provided that the local educational agency designs a program which the State educational agency determines in advance under subsection (f) of this section meets the requirements of subsection (c) of this section and which the State educational agency determines will be implemented by the local educational agencies in accordance with subsection (c) of this section; or

(C) a local compensatory education program which the State educational agency has determined in advance under subsection (f) of this section meets the requirements of subsection (c) of this section and which the State educational agency determines is being implemented in accordance with subsection (c) of this section; and

(D) a bilingual program for children of limited English proficiency or special educational program for handicapped children or children with specific learning disabilities; and

(2) a State phase-in program is a program which the Commissioner has determined in advance under subsection (e) of this section meets the requirements of subsection (d) of this section and which the State educational agency determines will be implemented by local educational agencies in accordance with subsection (d) of this section.

(c) State and local compensatory education programs similar to subchapter I programs

A State or local program meets the requirements of this subsection if it is similar to programs assisted under this part. The Commissioner shall consider a State or local program to be similar to programs assisted under this part if—

(1) all children participating in the program are educationally deprived,

(2) the program is based on performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives,

(3) the program provides supplementary services designed to meet the special educational needs of the children who are participating,

(4) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of clauses (1), (2), and (3) of this subsection, and

(5) the State educational agency monitors performance under the program to assure

that the requirements of clauses (1), (2), (3), and (4) of this subsection are met.

(d) Certain State phase-in programs

A State education program which is being phased into full operation meets the requirements of this subsection if the Commissioner is satisfied that—

(1) the program is authorized and governed specifically by the provisions of State law;

(2) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

(3) the program is based on objectives, including but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

(4) parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

(5) the program will benefit all children in a particular school or grade-span within a school;

(6) schools participating in a program describe, in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

(7) the phase-in period of the program is not more than six school years, except that the phase-in period for a program commenced prior to November 1, 1978 shall be deemed to begin on November 1, 1978;

(8) at all times during such phase-in period at least 50 per centum of the schools participating in the program are the schools serving project areas which have the greatest number or concentrations of educationally deprived children or children from low-income families;

(9) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would, in the absence of the phase-in program, have been provided for schools participating in such program;

(10) the local educational agency is separately accountable, for purposes of compliance with paragraphs (1) through (6), (8), and (9) of this subsection, to the State educational agency for any funds expended for such program; and

(11) the local educational agencies carrying out the program are complying with paragraphs (1) through (6), (8), and (9) and the State educational agency is complying with paragraph (10).

(e) Advance determinations by the Commissioner

The Commissioner shall make an advance determination of whether or not a State Program described in subsection (b)(1)(A) or (B) or (b)(2) of this section meets the requirements of subsection (c) of this section or meets the requirements of subsection (d) of this section. The Commissioner shall require each State educational agency to submit to him the provisions of State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for him to make such an advance determination. The Commissioner's determination shall be in writing and shall include the reasons for his determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Commissioner.

(f) Advance determination by the State educational agency

The State educational agency shall make an advance determination of whether or not a program described in subsection (b)(1)(C) of this section meets the requirements of subsection (c) of this section. The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines, and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

(Pub. L. 89-10, title I, § 131, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2173.)

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 2721, 2732, 2736, 2737, 2752 of this title.

§ 2752. Limited exemption to supplement, not supplant, requirement where certain special programs for educationally deprived children are fully funded

Whenever for a fiscal year—

(1) a local educational agency provides special State and local funds for programs for educationally deprived children which qualify under clause (A), (B), or (C) of section 2751(b)(1) of this title for an exception from the comparability and excess costs provisions under such section 2751, and

(2) the amount of such special State and local funds provided in eligible school attendance areas and for eligible schools when added to the Federal funds provided for programs under this subpart equals the amount such agency is eligible to receive for such fiscal year under section 2711(a)(2) of this title (without regard to adjustments under section 2843 of this title,

then the local educational agency may, without being considered in violation of section 2736(d) of this title, utilize additional State and local funds for special programs and projects which are solely for educationally deprived children residing in nonproject areas or attending nonproject schools, including areas and schools ineligible for assistance under this subchapter. The exemption in the preceding sentence does not apply to the extent the level of such special State and local funds, per child participating in such programs residing in ineligible school attendance areas or attending ineligible schools, exceeds the amount of funds, per child participating in programs in project areas, provided to the agency under this part plus the amount of such special State or local funds provided for use in such areas.

(Pub. L. 89-10, title I, § 132, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2175.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2736 of this title.

§ 2753. Schoolwide projects

(a) Use of funds for schoolwide projects

In the case of any school serving an attendance area that is eligible to receive services under this subchapter and in which not less than 75 per centum of the children are from low-income families (in accordance with criteria established by the Commissioner), the local educational agency may carry out a project under this subchapter to upgrade the entire educational program in that school if the requirements of subsection (b) of this section are met.

(b) Designation of schools

A school may be designated for a schoolwide project under subsection (a) of this section if—

(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency providing for—

(A) a comprehensive assessment of the educational needs of all students in the school, in particular the special needs of educationally deprived children, and

(B) an instructional program designed to meet the special needs of all students in the school;

(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, teacher aides, administrators, and secondary students if the plan relates to a secondary school;

(3) the plan provides for consultation among those individuals as to the educational progress of all students;

(4) the plan has been approved by the advisory council for that school established under section 2735 of this title;

(5) appropriate training is provided to teachers and teacher aides to enable them effectively to carry out the plan;

(6) the plan includes procedures for evaluation involving the participation of the individuals listed in paragraph (2), and opportunities for periodic improvements in the plan based on the results of those evaluations;

(7)(A) in the case of a school district in which there are one or more schools described in subsection (a) of this section and there are also one or more other schools serving project areas, the local educational agency makes the Federal funds provided under this part available for children in such schools described in subsection (a) of this section in amounts which per educationally deprived child served, equal or exceed the amount of such funds made available per educationally deprived child served in such other schools;

(B) the local educational agency makes special supplementary State and local funds available for the children in schools described in subsection (a) of this section in amounts which, per child served who is not educationally deprived, equal or exceed the amount of Federal funds provided under this part which, per educationally deprived child served, are made available for children in such schools; and

(C) the average per pupil expenditure in schools described in subsection (a) of this section (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in such schools in the previous fiscal year.

(c) Approval of school; operation of project

(1) The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b) of this section.

(2) For any school which has such a plan approved, the local educational agency—

(A) shall, in order to carry out the plan, be relieved of any requirements under this subchapter with respect to the commingling of funds provided under this subchapter with funds available for regular programs;

(B) shall not be required to identify particular children as being eligible to participate in programs assisted under this subchapter; and

(C) shall not be required to demonstrate that services provided with funds under this subchapter are supplementary to the services regularly provided in the school.

(Pub. L. 89-10, title I, § 133, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2176.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2733 of this title.

§ 2754. Noninstructional duties

Notwithstanding any provision of subpart 3 of this part, personnel paid entirely by funds made available under this subchapter may be assigned to certain limited, rotating, supervisory duties not related to classroom instruction, the benefits of which are not limited to participating children under this subchapter. Such duties may include only those to which similarly situated personnel not hired with funds made available under the subchapter are assigned at the same school site, and for which such similarly situated personnel are paid, and may not exceed the same proportion of total time as similarly situated personnel at the same school site, or 10 per centum of the total time, whichever is less.

(Pub. L. 89-10, title I, § 134, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2177.)

PART B—PROGRAMS OPERATED BY STATE AGENCIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2713 of this title.

SUBPART 1—PROGRAMS FOR MIGRATORY CHILDREN

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 2791, 2792, 2802, 2843, 2851, 2853 of this title.

§ 2761. Entitlement and amount of grants

(a) Entitlement

A State educational agency or a combination of such agencies shall, upon application, be entitled to receive a grant for any fiscal year under this part to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen which meet the requirements of section 2762 of this title.

(b) Amount of grant

(1) Except as provided in sections 2791 and 2792 of this title, the total grants which shall be made available for use in any State (other than Puerto Rico) for this subpart shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (i) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (ii) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under section 2762 of this title, the Commissioner shall allocate such excess, to the extent necessary, to other States, whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the full-time equivalent number of migratory children who are in a State during the summer months, the Commissioner shall adjust the number so determined to take into account the special needs of those children for summer programs and the additional costs of operating such programs during the summer. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of such migrant children in Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence, and

(B) 32 per centum of the average per pupil expenditure in the United States.

(Pub. L. 89-10, title I, § 141, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2177.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 122 of act Sept. 30, 1950, ch. 1124, title II, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 492, which was classified to section 241c-2 of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2762, 2763 of this title.

§ 2762. Program requirements

(a) Requirements for approval of application

The Commissioner may approve an application submitted under section 2761(a) of this title only upon his determination—

(1) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate such programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964 [42 U.S.C. 2861 et seq.] and under section 873 of title 29;

(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of subpart 3 of part A, other than sections 2732, 2733, and 2736(d) thereof;

(4) that, in planning and carrying out programs and projects at both the State and local educational agency level, there has been and will be appropriate consultation with parent advisory councils established in accordance with regulations of the Commissioner (consistent with the requirements of section 2735(a) of this title); and

(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this paragraph will not detract from the operation of programs and projects described in paragraph (1) of this subsection after considering funds available for this purpose.

(b) Continuation of migrant status

For purposes of this subpart, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this section. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this section.

(c) By-pass provision

If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

(Pub. L. 89-10, title I, § 142, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2178, and amended Pub. L. 96-46, § 1(7), (8), Aug. 6, 1979, 93 Stat. 338.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (a)(2), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Part B of title III of such Act, which was classified generally to part B (§ 2861 et seq.) of subchapter III of chapter 34 of Title 42, The Public Health and Welfare, was repealed by Pub. L. 95-568, § 8(a)(2), Nov. 2, 1978, 92 Stat. 2428. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 122(a)(1) of act Sept. 30, 1950, ch. 1124, title II, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 492, which was classified to section 241c-2(a)(1) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

AMENDMENTS

1979—Subsec. (a)(3). Pub. L. 96-46, § 1(7), substituted "and 2736(d)" for "2736(d), and 2740".

Subsec. (b). Pub. L. 96-46, § 1(8), substituted "submitted under this section" for "submitted under this subsection".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2761, 2832, 2836, 3150 of this title.

§ 2763. Coordination of migrant education activities

(a) Activities authorized

The Commissioner is authorized to make grants to, or enter into contracts with, State educational agencies to operate a system for the transfer among State and local educational agencies of migrant student records and to carry out other activities, in consultation with the States, to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students.

(b) Availability of funds

The Commissioner shall, from the funds appropriated for carrying out this subpart, reserve for purposes of this section for any fiscal year an amount which shall not be less than $6,000,000 nor more than 5 per centum of the amount so appropriated.

(Pub. L. 89-10, title I, § 143, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2179, and amended Pub. L. 96-46, § 1(9), Aug. 6, 1979, 93 Stat. 338.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-46 substituted provisions directing the Commissioner to reserve for purposes of this section for any fiscal year an amount which shall not be less than $6,000,000 nor more than 5 per centum of the amount so appropriated for provisions which authorized an appropriation for this section of not more than 5 per centum of the total amount paid for the preceding fiscal year to State educational agencies under section 2761 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 2—PROGRAMS FOR HANDICAPPED CHILDREN

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 2791, 2792, 2811, 2816, 2843, 2853 of this title.

§ 2771. Amount and eligibility

(a) Eligibility for grant

A State agency which is directly responsible for providing free public education for handicapped children (as that term is defined in section 1401(1) of this title), shall be eligible to receive a grant under this subpart for any fiscal year.

(b) Amount of grant

(1) Except as provided in sections 2791 and 2792 of this title, the grant which a State agency referred to in subsection (a) of this section (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such handicapped children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available.

(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such handicapped children in Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence, and

(B) 32 per centum of the average per pupil expenditure in the United States.

(c) Counting of children transferring from State to local programs

In the case where a child described in subsection (a) of this section leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) of this section if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in section 2772 of this title.

(Pub. L. 89-10, title I, § 146, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2180.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 121 of act Sept. 30, 1950, ch. 1124, title II, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 491, which was classified to section 241c-1 of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2772 of this title.

§ 2772. Program requirements

A State shall use the payments made under this subpart only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of handicapped children. Such programs and projects shall be administered and carried out in a manner consistent with subpart 3 of part A, other than sections 2732, 2733, 2735, 2736(d), and 2736(e) thereof. The State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) of section 2771 of this title will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

(Pub. L. 89-10, title I, § 147, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2180, and amended Pub. L. 96-46, § 1(10), Aug. 6, 1979, 93 Stat. 339.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 121 of act Sept. 30, 1950, ch. 1124, title II, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 491, which was classified to section 241c-1 of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

AMENDMENTS

1979—Pub. L. 96-46 substituted "and 2736(e)" for "2736(e), and 2740".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of

Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2771 of this title.

SUBPART 3—PROGRAMS FOR NEGLECTED AND DELINQUENT CHILDREN

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 2711, 2791, 2792, 2811, 2816, 2843, 2853 of this title.

§ 2781. Amount and entitlement

(a) Entitlement to grants

A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions).

(b) Amount of grant

(1) Except as provided in sections 2791 and 2792 of this title, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such neglected or delinquent children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such neglected or delinquent children in Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence, and

(B) 32 per centum of the average per pupil expenditure in the United States.

(Pub. L. 89-10, title I, § 151, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2181.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 123 of act Sept. 30, 1950, ch. 1124, title II, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 494, which was classified to section 241c-3 of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2783 of this title.

§ 2782. Program requirement

(a) Use of payments

A State agency shall use payments under this subpart only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children or in adult correctional institutions. Such programs and projects shall be designed to support educational services supplemental to the basic education of such children which must be provided by the State, and such programs and projects shall be administered and carried out in a manner consistent with subpart 3 of part A, other than sections 2732, 2733, 2735, 2736(d), and 2736(e) thereof.

(b) Three-year projects

Where a State agency operates programs under this subchapter in which children are likely to participate for more than one year, the State educational agency may approve the application for a grant under this subpart for a period of more than one year, but not to exceed three years.

(Pub. L. 89-10, title I, § 152, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2181, and amended Pub. L. 96-46, § 1(11), Aug. 6, 1979, 93 Stat. 339.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 123 of act Sept. 30, 1950, ch. 1124, title II, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 494, which was classified to section 241c-3 of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-46 substituted "and 2736(e)" for "2736(e), and 2740".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

§ 2783. Transition services

(a) Grants authorized

The Commissioner is authorized to make grants to State and local educational agencies to support projects to facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs. Grants under this section shall be used to provide special educational services for such children in schools other than State operated institutions.

(b) Appropriations authorized

There are authorized to be appropriated for the purposes of this section for any fiscal year, not to exceed 5 per centum of the amount State agencies are entitled to receive under section 2781 of this title for that year.

(Pub. L. 89-10, title I, § 153, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2182.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBPART 4—GENERAL PROVISIONS FOR STATE OPERATED PROGRAMS

§ 2791. Reservation of funds for territories

There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 per centum of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be allotted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this subchapter.

(Pub. L. 89-10, title I, § 156, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2182.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 124 of act Sept. 30, 1950, ch. 1124, title II, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 494, which was classified to section 241c-4 of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2711, 2761, 2771, 2781 of this title.

§ 2792. Minimum payments for State operated programs

No State shall receive in any fiscal year prior to October 1, 1983, pursuant to subpart 1, 2 or 3 of this part an amount which is less than 85 per centum of the amount which that State received in the prior fiscal year pursuant to the comparable sections of this subchapter as in effect immediately preceding November 1, 1978, or the comparable subpart of this part, whichever was in effect for such prior fiscal year, and, for any fiscal year ending prior to October 1, 1982, no State shall receive, pursuant to subpart 1 of this part, an amount which is less than 100 per centum of the amount that State received in the prior fiscal year pursuant to the comparable section of this subchapter as in effect immediately prior to November 1, 1978, or under subpart 1 of this part, whichever was in effect for such prior fiscal year.

(Pub. L. 89-10, title I, § 157, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2182.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 125 of act Sept. 30, 1950, ch. 1124, title II, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 495, which was classified to section 241c-5 of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2761, 2771, 2781 of this title.

PART C—STATE ADMINISTRATION OF PROGRAMS AND PROJECTS

SUBPART 1—APPLICABILITY; STATE APPLICATIONS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 2851 of this title.

§ 2801. Applicability

The provisions of this part (other than section 2802 of this title and subpart 3) shall apply in any fiscal year in which the provisions of section 3150(b)(2) of this title are not met.

(Pub. L. 89-10, title I, § 161, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2183.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 142 of act Sept. 30, 1950, ch. 1124, title II, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(2)(E), 88 Stat. 495, which was classified to section 241f of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

§ 2802. State applications

(a) Submission of State applications

Any State desiring to participate under this subchapter (except with respect to the program provided for in subpart 1 of part B relating to migratory children) shall have on file with the Commissioner an application submitted by its State educational agency.

(b) Contents of State applications

Each application required by subsection (a) of this section shall contain (1) satisfactory assurances that the State educational agency will comply with the requirements of this part, and

(2) such information as the Commissioner may consider necessary for him to make the findings required by section 2832 of this title.

(Pub. L. 89-10, title I, § 162, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2183.)

Prior Provisions

Provisions similar to this section were contained in prior section 141 of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 205, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 30, which was classified to section 241e of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 2801, 2832, 2836, 2851 of this title.

SUBPART 2—DUTIES IMPOSED ON STATE EDUCATIONAL AGENCIES

Subpart Referred to in Other Sections

This subpart is referred to in section 3150 of this title.

§ 2811. Application approval

(a) Requirements for approval

(1) A State educational agency shall approve an application of a local educational agency or a State agency under this subchapter if (A) such State educational agency is satisfied, after considering the factors specified in paragraph (2), that such applicant agency will use the funds received under the application in a manner which meets the requirements of this subchapter, the General Education Provisions Act [20 U.S.C. 1221 et seq.], and the rules, regulations, procedures, guidelines, criteria, or other requirements adopted by such agency which pertain to programs and projects assisted under this subchapter, and (B) such applicant agency is not out of compliance with a determination of the State educational agency or the Commissioner that it repay funds paid it under this subchapter which were misused, and is not out of compliance with a compliance agreement under section 2816(c) of this title.

(2) A state educational agency may approve an application under paragraph (1), only after it has considered, where pertinent, (A) the results of Federal and State audits, (B) the results of Federal and State monitoring reports, (C) administrative complaints made by parents or other individuals concerning the applicant agency's compliance with this subchapter, and (D) evaluations conducted under section 2734(g) of this title.

(b) Payments

Except as provided in section 2844 of this title, a State educational agency may make payments from funds received under this subchapter only for programs and projects which it has approved under subsection (a) of this section.

(c) Opportunity for hearing

A State educational agency shall not finally disapprove in whole or in part any application for funds under part A or under subpart 2 or subpart 3 of part B without first affording the local educational agency or other applicant submitting the application reasonable notice and opportunity for a hearing.

(Pub. 89-10, title I, § 164, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2183.)

References in Text

The General Education Provisions Act, referred to in subsec. (a)(1), is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

Prior Provisions

Provisions similar to this section were contained in prior section 141 of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 205, as added Apr. 11, 1965 Pub. L. 89-10, title I, § 2, 79 Stat. 30, which was classified to section 241e of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2812. State rulemaking

Nothing in this subchapter shall be deemed to prohibit a State educational agency from adopting rules, regulations, procedures, guidelines, criteria, or other requirements applicable to programs and projects assisted under this subchapter if they do not conflict with the provisions of this subchapter, with regulations promulgated by the Commissioner implementing this subchapter, or with other applicable Federal law. The Commissioner shall encourage a State educational agency, in adopting such rules, regulations, procedures, guidelines, criteria, or other requirements to recognize the special and unique needs and circumstances of the State and of each local educational agency in the State.

(Pub. L. 89-10, title I, § 165, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2184.)

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2813. Technical assistance and dissemination of information

Each State educational agency shall carry on a comprehensive program to provide technical assistance to local educational agencies and State agencies with respect to the use of funds received under this subchapter. Such a program shall include technical assistance for management procedures, for planning, development, implementation, and evaluation of programs, and for preparation of applications, as well as other forms of technical assistance needed by local educational agencies and State agencies. Each State educational agency shall also adopt effective procedures for disseminating to local educational agencies and State agencies (1) significant and relevant information derived from educational research, (2) information about successful compensatory education projects, (3) information about other Federal and State funded programs which may provide needed health, social, and nutrition services to eligible participating children under this subchapter, and (4) such other information as will assist local educational agencies and State agencies in planning, developing, implementing, and evaluating programs assisted under this subchapter.

(Pub. L. 89-10, title I, § 166, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2184.)

§ 2814. Monitoring

Each State educational agency shall adopt standards, consistent with minimum standards established by the Commissioner and with the State monitoring and enforcement plan submitted under section 2821 of this title, for monitoring the effectiveness of programs and projects assisted under this subchapter. Such standards shall (1) describe the purpose and scope of monitoring; (2) specify the frequency of onsite visits; (3) describe the procedures for issuing and responding to monitoring reports, including but not limited to, the period of time in which the State educational agency must issue its report, the period of time in which the applicant agency must respond, and the appropriate followup by the State educational agency; (4) specify the methods for making monitoring reports available to parents. State and local auditors, and other persons, and (5) specify the methods for insuring that non-compliant practices are corrected.

(Pub. L. 89-10, title I, § 167, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2184.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2815. Complaint resolution

Each State educational agency shall adopt written procedures for receiving complaints, or reviewing appeals from decisions of local educational agencies with respect to complaints, concerning violations of this subchapter or applicable provisions of the General Education Provisions Act [20 U.S.C. 1221 et seq.] in connection with programs assisted under this subchapter, and for conducting onsite investigations of such complaints which the State educational agency deems necessary. Such procedures shall include—

(1) specific time limits for resolving the complaint or completing the review and, if necessary, the independent onsite investigation, which shall not exceed sixty days unless exceptional circumstances exist;

(2) an opportunity for the complainant or the complainant's representative, or both, and the local educational agency involved to present evidence, including the opportunity to question parties to the dispute and any of their witnesses;

(3) the right to appeal the final resolution of the State educational agency to the Commissioner within thirty days after receipt of the written decision; and

(4) dissemination, free of charge, of information concerning these procedures to interested parties, including all district and school advisory councils.

(Pub. L. 89-10, title I, § 168, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2185.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in text, is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2816. Withholding of payments

(a) Withholding

Whenever a State educational agency, after reasonable notice and opportunity for a hearing (consistent with the requirements of section 434(b) of the General Education Provisions Act [20 U.S.C. 1232c(b)]) to any local educational agency or State agency, before an impartial decisionmaker, finds that there has been a failure to comply substantially with any provision of subpart 3 of part A or subpart 2 or 3 of part B, the State educational agency shall notify such agency that further payments, in whole or in part, will not be made to it under this subchapter until it is satisfied that there is no longer any such failure to comply. Until it is so satisfied, no further payments shall be made to such agency under this subchapter, except as may be provided in a compliance agreement entered into under subsection (c) of this section. Pending the outcome of any proceeding under this subsection, the State educational agency may suspend, in whole or in part, payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

(b) Notice to public of State withholding

Upon submission to a local educational agency or a State agency of a notice that the State educational agency pursuant to subsection (a) of this section is withholding payment, the State educational agency shall inform the district advisory council (if any) and shall take such additional action as may be necessary to bring the State action to the attention of the public.

(c) Compliance agreements

A State educational agency may suspend the initiation or continuation of its withholding action under subsection (a) of this section while there is in effect a compliance agreement with the local educational agency or State agency under this subsection. Such an agreement shall be deemed to be in effect for the period specified therein, except that if the local educational agency or State agency fails to comply with the terms agreed to, such agreement shall no longer be in effect and subsection (a) of this section shall be fully operative. In implementing such subsection, the State educational agency shall take into account any partial compliance by such agency under such agreement. For purposes of this subsection, the term "compliance agreement" means an agreement which—

(1) sets forth the terms and conditions to which the local educational agency or State agency has agreed in order to comply with the requirements of this subchapter or the General Education Provisions Act [20 U.S.C. 1221 et seq.] and regulations promulgated thereunder, and with the applicable rules, regulations, procedures, guidelines, criteria or other requirements adopted by the State educational agency;

(2) addresses all the matters that formed the basis for the initiation of the withholding action by the State educational agency; and

(3) may consist of a series of agreements that in the aggregate dispose of all such matters.

Within fifteen days after the execution of any compliance agreement, the State educational agency shall send a copy thereof to the district advisory council affected, and to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

(d) Review by the Commissioner

A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act [20 U.S.C. 1231b-2(a)], appeal a final determination of the State educational agency under subsection (a) of this section to the Commissioner.

(Pub. L. 89-10, title I, § 169, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2185.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (c)(1), is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2811 of this title.

§ 2817. Audits and audit resolution

(a) Auditing

Each State shall make provision for audits of the expenditure of funds received under this subchapter to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant. Such audits shall be made with reasonable frequency considering the nature, size, and complexity of the activity.

(b) Audit resolution

Each State educational agency shall have in effect written procedures meeting minimum standards established by the Commissioner, to assure timely and appropriate resolutions of audit findings and recommendations arising out of audits provided for in subsection (a) of this section. Such procedures shall include a description of the audit resolution process, timetables for each step of the process, and an audit appeals process. Whenever under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, such repayment may be made in either a single payment or in installments over a period not to exceed three years.

(c) Requirement for repayment

A local educational agency or State agency shall repay from non-Federal sources or from Federal funds, no accountability for which is required to the Federal Government, the amount of funds under this subchapter which have been finally determined through the audit resolution process to have been misspent or misapplied.

(d) Review by the Commissioner

A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act [20 U.S.C. 1231b-2(a)], appeal a final determination of the State educational agency under subsection (b) of this section to the Commissioner.

(e) Failure to repay

If, following an affirmation by the Commissioner of a final determination of a State educational agency under subsection (b) of this section or failure by a local educational agency or State agency to seek timely review by the Commissioner, such local educational agency or State agency refuses to repay from non-Federal sources, or from Federal funds no accountability for which is required to the Federal Government, funds which have been misspent or misapplied under this subchapter, the State educational agency shall promptly notify the Commissioner and the Commissioner shall promptly initiate collection action.

(Pub. L. 89-10, title I, § 170, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2186.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain

offices and positions, see sections 3441 and 3503 of this title.

SUBPART 3—RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES TO COMMISSIONER

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 2801 of this title.

§ 2821. State monitoring and enforcement plans

(a) State plan

Each State educational agency participating in programs under this subchapter shall submit, at such times (at least once every three years) and in such detail as the Commissioner shall prescribe, a State monitoring and enforceemnt[1] plan. Such plan shall set forth—

(1) a program of regular visits by State educational agency personnel to projects assisted under this subchapter;

(2) the matters to be reviewed during such visits;

(3) procedures for verifying information provided by local educational agencies and State agencies, including the use of other information available to the State to cross-check that information;

(4) procedures for regular audits of local educational agency and State agency expenditures under this subchapter, and procedures for the recovery of any expenditure determined not to be allowable under this subchapter;

(5) procedures for resolving each complaint received by the State relating to programs assisted under this subchapter, including complaints refered[2] to the State by the Commissioner and complaints by representatives of children enrolled in private schools that those children are not receiving the services to which they are entitled under this subchapter; and

(6) a description of the means by which the State educational agency has determined, and will continue to determine, the compliance by local educational agencies with the requirements of section 2740 of this title relating to the equitable provision of services to children enrolled in private schools.

(b) Report

Each plan submitted by a State educational agency under this section shall include a report, in such form as the Commissioner shall prescribe, of the activities undertaken by the State in the years since the previous plan was filed to carry out its monitoring and enforcement efforts under this subchapter.

(Pub. L. 89-10, title I, § 171, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2187.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 142(a)(1) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 206, as added Apr. 11, 1965 Pub. L. 89-10, title I, § 2, 79 Stat. 31, which was classified to section 241f(a)(1) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2711, 2814, 2832 of this title.

§ 2822. Reporting

Each State educational agency shall make to the Commissioner (1) periodic reports (including the results of objective measurements required by section 2734(g) of this title and of research and replication studies) evaluating the effectiveness of payments under this subchapter and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (2) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this subchapter (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year).

(Pub. L. 89-10, title I, § 172, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2187.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 142(a)(3) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 206, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 31, which was classified to section 241f(a)(3) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2711, 2802, 2833 of this title.

§ 2823. Recordkeeping, fiscal control, and fund accounting

Each State educational agency which receives funds under this subchapter shall use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, funds made available under this subchapter, and keep such records, and afford access thereto, as the Commissioner shall prescribe, including records which fully disclose the amount and disposition by such agency of such funds, the total cost of programs and projects in connection with which such funds are used, the amount of that portion of the cost of the program and project supplied by other sources, and such other records as will facilitate an effective audit.

(Pub. L. 89-10, title I, § 173, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2188.)

---

[1] So in original. Probably should be "enforcement".

[2] So in original. Probably should be "referred".

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 142(a)(2) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 206, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 31, which was classified to section 241f(a)(2) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2824. Prohibition of consideration of Federal aid in determining State aid

No State shall take into consideration payments under this subchapter in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

(Pub. L. 89-10, title I, § 174, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2188.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 143(c)(1) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 207, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 32, which was classified to section 241g(c)(1) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

PART D—FEDERAL ADMINISTRATION OF PROGRAMS AND PROJECTS

§ 2831. Applicability

In addition to other requirements contained in this part, the requirements of the General Education Provisions Act [20 U.S.C. 1221 et seq.] which relate to Federal administration of elementary and secondary education programs shall apply to programs carried out under this subchapter.

(Pub. L. 89-10, title I, § 181, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2188.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in text, is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

§ 2832. Approval of applications

(a) Requirement for approval

The Commissioner shall not approve an application under section 2802 of this title until he has made specific findings, in writing, that (1) the application and the State monitoring and enforcement plan required under section 2821 of this title comply with this subchapter, and (2) that he is satisfied that the assurances in such application and the assurances contained in its general application under section 435 of the General Education Provisions Act [20 U.S.C. 1232d] (where applicable) will be carried out.

(b) Hearings

The Commissioner shall, in accordance with the procedures set forth in section 453 of the General Education Provisions Act [20 U.S.C. 1234b], not finally disapprove an application under section 2762 of this title or section 2802 of this title except after notice and opportunity for a hearing to the State educational agency.

(Pub. L. 89-10, title I, § 182, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2188.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 142(a) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 206, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 31, which was classified to section 241f(a) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2802, 2838 of this title.

§ 2833. Program evaluation

(a) Independent evaluations

The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this subchapter. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs and projects.

(b) Evaluation standards and schedule

The Commissioner shall (1) develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this subchapter, and (2) develop, in consultation with State educational agencies and representatives of local educational agencies, a schedule for conducting evaluations under section 2734(g) of this title designed to ensure that evaluations are conducted in representative samples of the local educational agencies in any State each year. Such standards will be developed only after widespread consultation and hearings with practicing State and local agency evaluators, and the Commissioner's standards will reflect the input of these groups.

(c) Jointly sponsored studies

The Commissioner shall consult with State and local educational agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this subchapter within a State.

(d) Evaluation models

The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this subchapter, for their use in carrying out their functions under section 2822 of this title, which shall include uniform procedures and criteria to be utilized by local educational agencies and State agencies as well as by the State educational agency in the evaluation of such programs. In developing evaluation design models the Commissioner shall consult with State and local evaluators experienced in conducting such evaluations.

(e) Technical assistance

The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies and State agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

(f) Specification of objective criteria

The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and nationwide basis.

(g) Report to Congress

The Commissioner shall make a report to the respective committees of the Congress having legislative jurisdiction over programs authorized by this subchapter and the respective Committees on Appropriations no later than February 1, 1980, 1982, and 1984 concerning the results of evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with other related findings and evaluations and his recommendations with respect to legislation.

(h) Information dissemination

The Commissioner shall also develop a system for the gathering and dissemination of the results of evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State agencies and local educational agencies responsible for the design and conduct of programs and projects under this subchapter, and to the education profession and the general public.

(i) Maximum expenditures

The Commissioner is authorized, out of funds appropriated to carry out this subchapter in any fiscal year, to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed one-half of 1 per centum of the amount appropriated for such programs. In carrying out the provisions of this section, the Commissioner shall place priority on assisting States, local educational agencies, and State agencies to conduct evaluations and shall, only as funds are available after fulfilling that purpose, seek to conduct any national evaluations of the program.

(Pub. L. 89-10, title I, § 183, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2189.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 151 of act Sept. 30, 1950, ch. 1124, title II, as added Aug. 21, 1974, Pub. L. 93-380, title I, § 101(a)(8), 88 Stat. 499, which was classified to section 241o of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2734, 2838 of this title.

§ 2834. Complaint resolution

The Commissioner shall develop and implement written procedures for receiving and resolving appeals from final resolutions of State educational agencies with respect to complaints concerning violations of this subchapter or of applicable provisions of the General Education Provisions Act [20 U.S.C. 1221 et seq.] in connection with programs under this subchapter, for receiving such complaints directly from parent advisory councils, parents, teachers, or other concerned organizations or individuals, and for conducting independent onsite investigations of complaints if the Commissioner deems necessary. Such procedures shall include—

(1) specific time limits for resolving the complaint or for completing the review and any necessary independent investigation, which shall not exceed sixty days unless exceptional circumstances exist;

(2) an opportunity for the complainant, the complainant's representative, the local educational agency and the State educational agency to present evidence;

(3) a requirement that the complainant, the complainant's representative, the local educational agency, the State educational agency, State agency, the district parent advisory council, and appropriate school-parent advisory councils shall be notified, in writing, within ten days after the resolution of the appeal of the nature of the resolution, the reasons therefor, and the right to an administrative appeal; and

(4) dissemination of information concerning the procedures.

(Pub. L. 89-10, title I, § 184, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2190.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in text, is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2835. Audits and audit resolution

(a) Auditing

The Inspector General of the Department of Health, Education, and Welfare shall make provision for audits of grants made under this subchapter to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant.

(b) Audit resolution and repayment

The Commissioner shall adopt procedures to assure timely and appropriate resolution of audit findings and recommendations arising out of audits provided for in subsection (a) of this section. Such procedures shall include timetables for each step of the audit resolution process and an audit appeals process. Where, under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, the Commissioner shall require the repayment of the amount of funds under this subchapter which have been finally determined through the audit resolution process to have been misspent or misapplied. Such repayment may be made from funds derived from non-Federal sources or from Federal funds no accountability for which is required to the Federal Government. Such repayments may be made in either a single payment or in installment payments over a period not to exceed three years.

(Pub. L. 89-10, title I, § 185, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2190.)

TRANSFER OF FUNCTIONS

The functions of the Inspector General of the Department of Health, Education, and Welfare under this chapter were transferred to the Office of Inspector General of the Department of Education by section 9(a)(1)(C) of the Inspector General Act of 1978, set out in the Appendix to Title 5, Government Organization and Employees.

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2851 of this title.

§ 2836. Withholding of payments

(a) Withholding

Whenever the Commissioner, after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 2762 or 2802 of this title, the Commissioner shall notify the agency that further payments will not be made to the State under this subchapter (or, in his discretion, that the State educational agency shall reduce or terminate further payments under this subchapter to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under this subchapter, or (2) payments by the State educational agency under this subchapter shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies or State agencies shall be reduced, as the case may be. Where partial payments to a local educational agency are continued under this subsection, the expenditure of the payments shall be subject to such conditions as the Commissioner deems appropriate in light of the failure which led to the partial withholding. In the case of a substantial and continuing violation, the Commissioner may suspend payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

(b) Notice to public of Commissioner withholding

Upon submission to a State of a notice under subsection (a) of this section that the Commissioner is withholding payments, the Commissioner shall take such action as may be necessary to bring his action to the attention of the public within the State.

(c) Compliance agreement

(1) The Commissioner may suspend the initiation or continuation of his withholding action under subsection (a) of this section during any period there is in effect a compliance agreement with the State educational agency under this subsection. Such an agreement shall be deemed to be in effect for the period specified therein, except that if the State educational agency fails to comply with the terms agreed to, such an agreement shall no longer be in effect and subsection (a) of this section shall be fully operative. In implementing such subsection, the Commissioner shall take into account any partial compliance by such agency under such agreement.

(2) For the purpose of this subsection, the term "compliance agreement,[1] means an agreement which—

(A) sets forth the terms and conditions to which the State or local educational agency or State agency has agreed in order to comply with the requirements of this subchapter or the General Education Provisions Act [20 U.S.C. 1221 et seq.] and regulations promulgated thereunder;

(B) addresses all the matters that formed the basis for the initiation of the withholding action by the Commissioner; and

(C) may consist of a series of agreements that in the aggregate dispose of all such matters.

---

[1] So in original. The comma probably should be a closing quotation mark.

(3) In any case in which a State educational agency desires to enter into a compliance agreement, but alleges that full compliance with the requirements of this subchapter is genuinely not feasible until a further date, the Commissioner shall hold a hearing at which that agency shall have the burden of demonstrating that immediate compliance is not feasible. The Commissioner shall provide an opportunity for parents, their representatives, and other interested parties to participate in that hearing. If the Commissioner determines, on the basis of all the evidence presented to him, that immediate compliance is genuinely not feasible, he shall make written findings to that effect before entering into such a compliance agreement with that State educational agency. A compliance agreement under this subsection shall not be exempt from disclosure under any provision of section 552 of title 5. Within fifteen days after the execution of any compliance agreement under this subsection, the Commissioner shall send a copy thereof to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

(Pub. L. 89-10, title I, § 186, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2191.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (c)(2)(A), is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 146 of act Sept. 30, 1950, ch. 1124, title II, § 146, formerly title II, § 210, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 33, which was classified to section 241j of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2851 of this title.

§ 2837. Policy manual

(a) Scope and purpose

The Commissioner shall, not later than six months after the publication of final regulations with respect to the amendments to this subchapter made by the Education Amendments of 1978, prepare and distribute to State educational agencies, State agencies operating programs for neglected and delinquent and handicapped children, local educational agencies, and district-wide advisory councils, and shall make available to other interested individuals, organizations, and agencies, a policy manual for this subchapter to—

(1) assist such agencies in (A) preparing applications for program funds under this subchapter, (B) meeting the applicable program requirements under this subchapter and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this subchapter;

(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this subchapter;

(3) assist advisory councils established under section 2735(a) of this title in advising the local educational agencies in the planning for, and implementation and evaluation of, programs and projects under this subchapter; and

(4) insure that officers and employees of the Department of Health, Education, and Welfare, including, but not limited to, officers and employees of the Commissioner and officers and employees of such Department charged with auditing programs carried on under this subchapter, uniformly interpret, apply, and enforce requirements under this subchapter throughout the United States.

(b) Contents of policy manual

The policy manual shall, with respect to programs carried on under this subchapter, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5 to be published or made available, the manual shall include (but not be limited to)—

(1) a statement of the requirements applicable to the programs carried on under this subchapter including such requirements contained in this subchapter, the General Education Provisions Act [20 U.S.C. 1221 et seq.], other applicable statutes, and regulations issued under the authority of such statutes;

(2) an explanation of the purpose of each requirement, including appropriate references to legislative history;

(3) an explanation of the interrelationships between the applicable requirements;

(4) a statement of the procedures to be followed by the Commissioner and the Secretary with respect to proper and efficient performance of their administrative responsibilities, including but not limited to (A) approving State applications or State plans, (B) distributing grants to appropriate agencies, (C) resolving problems discovered during monitoring visits, (D) resolving financial exceptions disclosed during audits, (E) collecting outstanding claims arising out of activities under this subchapter, (F) resolving complaints, (G) responding to requests for advisory opinions interpreting and applying standards contained in applicable statutes and regulations to the public, (H) identifying and publicizing exemplary programs, and (I) making public audit determinations of the Commissioner or of any officer or panel authorized by the Commissioner to make such determinations;

(5) summaries of (A) advisory opinions referred to in paragraph (4)(G) of this section

and (B) final audit determinations referred to in paragraph (4)(I), including examples of actual applications of the legal requirements of applicable statutes and regulations;

(6) model forms and instructions developed by the Commissioner for use by State and local educational agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs operated by applicant agencies;

(7) summaries of appropriate court decisions concerning programs under this subchapter;

(8) examples of methods of distributing State and local funds which do and do not satisfy the applicable requirements under this subchapter; and

(9) model forms, policies, and procedures developed by State educational agencies.

(Pub. L. 89-10, title I, § 187, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2192.)

REFERENCES IN TEXT

The Education Amendments of 1978, referred to in subsec. (a), is Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 2701 of this title and Tables.

The General Education Provisions Act, referred to in subsec. (b)(1), is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2838. Enforcement report

The Commissioner shall, in conjunction with the report required by section 2833(g) of this title, submit to the Congress a report concerning the enforcement of this subchapter. The report submitted in 1980, 1982, and 1984 shall contain—

(1) an analysis, for each State which has an application approved for that year under section 2832 of this title, of the extent to which the assurances, policies, and procedures of that State submitted as part of that application satisfy the requirements of this subchapter,

(2) a description for each such State of the manner in which monitoring reports of the Commissioner were taken into consideration in the approval of such applications,

(3) a description, with respect to appropriate States, of the manner in which unresolved audit and program monitoring findings were taken into consideration in the approval of such applications,

(4) a description for each such State of the manner in which the annual evaluation report of that State was taken into consideration in the approval of such applications,

(5) a summary of the findings of the Commissioner's on-site monitoring visits, of the actions taken by State educational agencies to correct problems identified in each report based on such visits, and of the number, type, and location of problems which have been so identified but which have not been corrected as of the date of the submission of the annual enforcement report under this section,

(6) with respect to audits conducted under this subchapter, (A) the number and type of audits conducted in the year preceding the date of submission of the report, (B) the identity of each State or local educational agency audited during that year, (C) the resolution status of each outstanding audit, including the dates on which each step of the resolution process with respect to such outstanding audit was completed, the schedule for completion of such process, the amount of the financial exceptions noted in final audit reports and in letters of final determination, and an explanation of any differences in such amounts as noted in draft audit reports, final audit reports, and letters of final determination, (D) the number and identity of any States which did not appeal to the audit hearing board for this subchapter with respect to audits conducted during that year and the status of recoupment activities for each such State, (E) the number and identity of States which appealed to such board during that year and the status of each active appeal, (F) the number and identity of States which have completed such appeals during that year and the status of recoupment activities with respect thereto, (G) the number and type of any cases referred to the Attorney General during that year for collection of misspent funds, (H) the amount of any funds recovered during that year as a result of such audit resolution process, (I) an analysis of the type of violations identified in final audit reports, letters of final determination, and final decisions of the audit hearing board for this subchapter and of the Commissioner on appeal from the decisions of such board, (J) a summary of audit followup actions conducted during that year for the purpose of determining that deficiencies which led to financial audit exceptions or audit findings of procedural noncompliance have been corrected, (K) a description of audits planned for the year succeeding the date of the submission of the report, and (L) recommendations for improvement of the audit resolution process, and

(7) with respect to complaints made to the Commissioner concerning programs under this subchapter during the year preceding the date of submission of the report under this section, the number and type of complaints, the identity of the State and local educational agencies, the action taken by the Commissioner to resolve the complaints, and the number and type of complaints which remain unresolved as of the date of such submission.

(Pub. L. 89-10, title I, § 188, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2193.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of

Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART E—PAYMENTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2711 of this title.

§ 2841. Payment methods

The Commissioner shall, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this subchapter. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this subchapter (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

(Pub. L. 89-10, title I, § 191, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2195.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 143(a)(1) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 207, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 32, which was classified to section 241g(a)(1) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2721, 2722, 2842 of this title.

§ 2842. Amount of payments to local educational agencies

From the funds paid to it pursuant to section 2841 of this title each State educational agency shall distribute to each local educational agency of the State which is eligible to receive a grant under this subchapter and which has submitted an application approved pursuant to section 2731 of this title the amount for which such application has been approved, except that the amount shall not exceed the amount determined for that agency under this subchapter.

(Pub. L. 89-10, title I, § 192, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2195.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 143(a)(2) of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 207, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 32, which was classified to section 241g(a)(2) of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

§ 2843. Adjustments where necessitated by appropriations

(a) Adjustment allocation

If the sums appropriated for any fiscal year for making the payments provided in this subchapter other than amounts appropriated for subpart 2 of part A are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this subchapter for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part B shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under subpart 1 of part A of this subchapter for such year, the allocations to such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under subpart 1 of part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year.

(b) Additional funds allocation

In case additional funds become available for making payments under this subchapter for that year, allocations that were reduced pursuant to subsection (a) of this section shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this subchapter, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State and (2) State educational agencies referred to in subpart 1 of part B must file applications. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under the first sentence of subsection (a) of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this subchapter in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 2711(a) of this title as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this subchapter in such manner as the respective State educational agencies shall prescribe.

(Pub. L. 89-10, title I, § 193, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2195.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 144 of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 208, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 33, which was classified to section 241h of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2752 of this title.

§ 2844. Payments for State administration

(a) Except as provided in subsection (b) of this section, the Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this subchapter, except that the total of such payments in any fiscal year shall not exceed—

(1) 1.5 per centum of the amount allocated to the State and its local educational agencies and to other State agencies as determined for that year under this subchapter; or

(2) $225,000, or $50,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands,

whichever is the greater, except that any amount paid by reason of clause (1) or (2) in excess of the limitations on such payments in effect prior to October 1, 1978, shall be used exclusively for monitoring, audit resolution, enforcement, or similar compliance activities and shall supplement and not supplant funds otherwise available from non-Federal sources for such purposes.

(b) The provisions of this section shall apply in any fiscal year in which the provisions of section 3150(b)(2) of this title are not met.

(Pub. L. 89-10, title I, § 194, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2196.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2811, 3150 of this title.

PART F—GENERAL PROVISIONS

§ 2851. Judicial review

(a) Filing appeals

If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under subpart 1 or[1] part B or section 2802 of this title or with his final action under section 2835 or 2836 of this title, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28.

(b) Basis of review

The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Judicial appeals

Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 89-10, title I, § 195, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2196.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 147 of act Sept. 30, 1950, ch. 1124, title II, § 147, formerly title II, § 211, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 33, Act of 1965, which was classified to section 241k of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

---

[1] So in original. Probably should be "of".

§ 2852. National Advisory Council

(a) Council established

There shall be a National Advisory Council on the Education of Disadvantaged Children (hereinafter in this section referred to as the "National Council") consisting of fifteen members appointed by the President, without regard to the provisions of title 5 governing appointment in the competitive service, for terms of three years, except that (1) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.

(b) Functions

The National Council shall review and evaluate the administration and operation of this subchapter, including its effectiveness in improving the educational attainment of educationally deprived children, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this subchapter and its administration and operations. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

(c) Reports

The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this subchapter) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this subchapter, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 1233g(b) of this title, the National Council shall continue to exist until October 1, 1984.

(Pub. L. 89-10, title I, § 196, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2197.)

REFERENCES IN TEXT

The provisions of title 5 governing appointment in the competitive service, referred to in subsec. (a), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 148 of act Sept. 30, 1950, ch. 1124, title II, formerly title II, § 212, as added Apr. 11, 1965, Pub. L. 89-10, title I, § 2, 79 Stat. 34, which was classified to section 241*l* of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2853. Limitation on grant to Puerto Rico

Notwithstanding the provisions of part A or of subpart 1, 2, or 3 of part B of this subchapter, the amount paid to the Commonwealth of Puerto Rico under this subchapter for any fiscal year shall not exceed 150 per centum of the amount received by Puerto Rico under this subchapter in the preceding fiscal year. Any excess over such amount shall be used to ratably increase the allocations under subpart 1 of part A of the other local educational agencies whose allocations do not exceed the maximum amount for which they are eligible under section 2711 of this title.

(Pub. L. 89-10, title I, § 197, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2198.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 843(d) of Pub. L. 93-380, Aug. 21, 1974, 88 Stat. 611, which was set out as a note under section 241c of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

§ 2854. Definitions

Except as otherwise provided, for purposes of this subchapter:

(1) The term "average daily attendance" means attendance determined in accordance with State law, except that notwithstanding any other provision of this subchapter, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this subchapter the attendance of such child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

(2) The term "average per pupil expenditure" means in the case of a State or the United States, the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expendi-

tures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(3) The term "Commissioner" means the United States Commissioner of Education.

(4) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(5) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(6) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this subchapter or parts B and C of subchapter IV of this chapter.

(7) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(8) The term "equipment" includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(9) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

(10) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(11) The term "parent" includes a legal guardian or other person standing in loco parentis.

(12) The term "project area" means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this subchapter.

(13) The term "school attendance area" means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

(14) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(15) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(16) The term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(17) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(Pub. L. 89-10, title I, § 198, as added Pub. L. 95-561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2198.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER II—BASIC SKILLS IMPROVEMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 244, 3381 of this title.

PART A—NATIONAL PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2921, 2922 of this title.

§ 2881. Purpose

The purpose of this part is—

(1) to assist Federal, State, and local educational agencies to coordinate the utilization of all available resources for elementary and secondary education to improve instruction so that all children are able to master the basic

skills of reading, mathematics, and effective communication, both written and oral;

(2) to encourage States to develop comprehensive and systematic plans for improving achievement in the basic skills;

(3) to provide financial assistance to State and local educational agencies for the development of programs in the basic skills;

(4) to develop means by which parents working with the schools can contribute to improving the educational achievement of their children;

(5) to encourage the involvement of the private sector in the delivery to children, youths, and adults of educational services and materials that will improve achievement in the basic skills; and

(6) to expand the use of television and other technology in the delivery of instructional programs aimed at improving achievement in the basic skills.

(Pub. L. 89-10, title II, § 201, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2201.)

Prior Provisions

A prior section 201 of Pub. L. 89-10, title II, Apr. 11, 1965, 79 Stat. 36, was classified to section 821 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

§ 2882. Applications

(a) The Secretary may make a grant or award a contract under this part only upon the submission of an application by an eligible entity at the time and in the form prescribed by the Secretary. Each such application by a State or local educational agency shall provide assurances that—

(1) in designing the proposal for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with private school officials; and, to the maximum extent feasible, and consistent with the number of such children in the area to be served who have the educational needs the proposal is intended to address, those children will be provided an opportunity to participate in the proposed activity on a basis comparable to that provided for public school children;

(2) procedures have been developed to evaluate the effectiveness of the proposed activity in achieving the purposes of this subchapter; and

(3) procedures have been developed for incorporating successful practices developed with assistance under this subchapter into the regular instructional program.

(b) No grant or contract may be awarded to a local educational agency under this part unless the appropriate State educational agency has been provided an opportunity for at least thirty days to comment on the application.

(Pub. L. 89-10, title II, § 202, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2202.)

Prior Provisions

A prior section 202 of Pub. L. 89-10, title II, Apr. 11, 1965, 79 Stat. 36, was classified to section 822 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2883. Acceptance of gifts

Notwithstanding the provisions of section 1221e-3(a)(3) of this title, the Secretary may accept, on behalf of the United States, conditional or unconditional gifts or donations of services, money, or property, made for any activities authorized to be carried out under this subchapter.

(Pub. L. 89-10, title II, § 203, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2202.)

Prior Provisions

A prior section 203 of Pub. L. 89-10, title II, Apr. 11, 1965, 79 Stat. 37, was classified to section 823 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2884. Grants and contracts

(a) In order to achieve the purposes of this part, the Secretary is authorized, during the period of October 1, 1979, through September 30, 1983, to make grants to, and enter into contracts with, State and local educational agencies, and other public and private agencies, organizations, and institutions to carry out planning, research, development, demonstrations (including training of leadership personnel, evaluation, and dissemination, as described in sections 2885 through 2889 of this title), except that no grant may be made under this part to other than a public or nonprofit private agency, organization, or institution.

(b) The Secretary may provide to such agencies, organizations, and institutions, either directly or through grants or contracts, technical assistance related to the purposes of this part.

(Pub. L. 89-10, title II, § 204, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2202.)

Prior Provisions

A prior section 204 of Pub. L. 89-10, title II, Apr. 11, 1965, 79 Stat. 38, was classified to section 824 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of

Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2885, 2886, 2887 of this title.

§ 2885. Instruction in basic skills

The Secretary shall provide assistance, in accordance with section 2884 of this title, for activities designed to demonstrate improved delivery of instructional services in the areas of reading, mathematics, and oral and written communication, including—

(1) assessment of schoolwide needs to identify the instructional needs of children in basic skills;

(2) establishing learning goals and objectives for each school;

(3) the development of comprehensive programs to address the needs through the use of resources available under this part and other resources from local, State, and Federal programs;

(4) the demonstration of techniques for coordinating the efforts of local agencies, organizations, and institutions, to improve achievement in basic skills;

(5) preservice training programs for teaching personnel including teacher aides and other ancillary educational personnel, and inservice training and development programs, designed to enable such personnel to improve their ability to teach basic skills; and

(6) active involvement of teachers, teacher aides, administrators, and other educational personnel to improve their ability to utilize available resources to carry out the purposes of this part.

(Pub. L. 89-10, title II, § 205, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2202.)

PRIOR PROVISIONS

A prior section 205 of Pub. L. 89-10, title II, Apr. 11, 1965, 79 Stat. 38, was classified to section 825 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2884 of this title.

§ 2886. Parental participation in basic skills instruction

The Secretary, in accordance with section 2884 of this title, shall support activities designed to enlist the assistance of parents and volunteers working with schools to improve the skills of children in reading, mathematics, and oral and written communication. The activities which may be supported under this section include—

(1) the development and dissemination of materials that, with appropriate training, parents may use in the home to improve their children's performance in those skills; and

(2) voluntary training activities for parents to encourage them to assist their children in developing basic skills.

(Pub. L. 89-10, title II, § 206, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2203.)

PRIOR PROVISIONS

A prior section 206 of Pub. L. 89-10, title II, Apr. 11, 1965, 79 Stat. 38, was classified to section 826 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2887. Use of technology in basic skills instruction

The Secretary, in accordance with section 2884 of this title, shall support development and demonstration activities related to the improved use of television and other technology to contribute to the instruction of children in reading, mathematics, and written and oral communication. The activities authorized under this section shall be designed to expand the variety and improve the quality of instructional efforts involving the use of technology. The activities which may be supported under this section include—

(1) the development and acquisition of educational programing, including audio and video materials distributed through broadcast, cable, tape, film, cassettes, or other means that provide instruction in basic skills in an effective manner;

(2) the development and acquisition of instructional materials that supplement educational programing described in clause (1) of this section in order to improve its effectiveness in the school, the home, and other learning environments;

(3) the development and acquisition of materials to assist teachers in relating such programing, or similar public or commercial programs of educational value, to instruction in the classroom;

(4) the training of teachers, administrators, and other instructional personnel in the use of educational technology;

(5) assistance to teachers, administrators, and other instructional personnel for experimentation with new technological approaches to instruction; and

(6) distribution of information about, and promotion of the use of, such programing and technology in the classroom and other learning environments.

(Pub. L. 89-10, title II, § 207, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2203.)

PRIOR PROVISIONS

A prior section 207 of Pub. L. 89-10, title II, Apr. 11, 1965, 79 Stat. 39, the Elementary and Secondary Education Act of 1965, was classified to section 827 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2888. Involvement of educational agencies and private organizations

(a) The Secretary shall provide assistance and information to State and local educational agencies, institutions of higher education, and private agencies, organizations, and institutions (such as labor unions, volunteer organizations, and business associations) to support the efforts of such agencies, organizations, and institutions to stimulate children, youths, and adults to improve their achievement in basic skills. The activities which may be supported under this section include—

(1) programs to motivate children to improve their reading skills through the distribution to children of books;

(2) instructional programs and voluntary tutorial programs to provide individual assistance outside of the school to children, youths, and adults with instruction needs;

(3) community efforts to encourage individuals to improve their performance in basic skills; and

(4) the establishment of programs for lending or selling books to children, youths, and adults.

(b) Activities supported under subsection (a)(2) of this section may be known as reading academies.

(Pub. L. 89-10, title II, § 208, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2204.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2889. Collection and dissemination of information relating to basic skills programs

The Secretary is authorized to use funds appropriated under this part to collect and analyze information concerning the results of activities carried out under this subchapter and under part C of subchapter IV of this chapter, including information on the activities which have been successful in improving the achievement of students in the basic skills. Such funds may also be used to disseminate that information to State and local educational agencies and other interested public and private agencies, organizations, and institutions.

(Pub. L. 89-10, title II, § 209, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2204.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2884 of this title.

§ 2890. Coordination

The Secretary shall establish effective and efficient procedures for coordination between the programs assisted under this part and other parts of this subchapter, with programs assisted under subchapter I and subchapter IV of this chapter, title V of the Economic Opportunity Act of 1964 [42 U.S.C. 2921 et seq.], title V of the Higher Education Act of 1965 [20 U.S.C. 1101 et seq.], and other such Federal programs that support efforts to improve the basic skills of children, youth and adults.

(Pub. L. 89-10, title II, § 210, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2204.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964 referred to in text, is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title V of the Economic Opportunity Act of 1964, known as the Headstart-Follow Through Act, is classified generally to subchapter V (§ 2921 et seq.) of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title V to the Code, see section 2921 of Title 42 and Tables.

The Higher Education Act of 1965, referred to in text, is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title V of the Higher Education Act of 1965 is classified principally to subchapter V (§ 1101 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART B—STATE BASIC SKILLS IMPROVEMENT PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2921, 2922 of this title.

§ 2901. Statement of purpose

It is the purpose of this part to provide financial assistance to States to enable them—

(1) to develop comprehensive and systematic statewide plans for improving achievement in the basic skills, to coordinate available resources for elementary and secondary education, and to provide financial assistance to improve the instruction so that all children are able to master the basic skills of reading,

mathematics, and effective communication, both written and oral;

(2) to provide assistance to local agencies in the development and implementation of comprehensive programs to improve basic skills proficiency and instruction in the elementary and secondary schools;

(3) to develop means by which parents working with the schools can contribute to improving the educational achievement of their children;

(4) to provide State leadership in the planning, execution, and evaluation of basic skills instructional programs in elementary and secondary schools; and

(5) to arrange for and assist in the training of educational staff, including special reading and mathematics personnel and specialists needed in programs assisted under this part.

(Pub. L. 89-10, title II, § 221, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2204.)

§ 2902. Agreements with State educational agencies

(a) Scope and contents

Any State which desires to receive grants under this part shall, through its State educational agency, enter into an agreement with the Secretary, in such detail as the Secretary deems necessary, which—

(1) designates the State educational agency as the agency for administration of the agreement;

(2) provides for a process of active and continuing consultation with the State educational agency, by persons broadly representative of the educational resources of the State and of the general public, including persons representative of—

(A) public and private nonprofit elementary and secondary schoolchildren.

(B) institutions of higher education,

(C) parents of elementary and secondary schoolchildren,

(D) areas of professional competence relating to basic skills instruction in reading and mathematics,

(E) classroom teachers in the State, and

(F) local administrators including principals and superintendents,

to advise the State educational agency on the planning, development, implementation, and evaluation of a comprehensive State program for improving basic skills;

(3) describes the basic skills instructional programs in elementary and secondary schools for which assistance is sought under this part and procedures for giving priority to basic skills programs which are already receiving Federal financial assistance and show reasonable promise of achieving success;

(4) sets forth criteria for achieving an equitable distribution of that part of the assistance under this part which is made available to local educational agencies pursuant to the second sentence of subsection (b) of this section, which criteria shall—

(A) take into account the size of the population to be served, beginning with preschool, the relative needs of pupils in different population groups within the State for the program authorized by this part, and the financial ability of the local educational agency serving such pupils, and

(B) assure that such distribution shall include grants to local educational agencies having high concentrations of children with low reading or mathematics proficiency;

(5) provides for the coordination and evaluation of programs assisted under this part;

(6) provides for technical assistance and support services for local educational agencies participating in the program;

(7) makes provision for the dissemination to the educational community and the general public of information about the objectives of the program and results achieved in the course of its implementation;

(8) provides for making a report, at least once every three years, and such other reports, in such form and containing such information, as the Secretary may reasonably require to evaluate the effectiveness of the program and to carry out his other functions under this part;

(9) provides that not more than 5 per centum of the amount allotted to the State under this part for any fiscal year may be retained by the State educational agency for purposes of administering the agreement;

(10) provides that programs assisted under this part shall be of sufficient size, scope, and quality so as to give reasonable promise of substantial progress toward achieving the purposes of this part; and

(11) provides that Federal funds expended under the program will supplement the level of State and local funds that would be available for such programs in the absence of Federal assistance, and in no event will supplant such State and local funds.

(b) Grant requirements and funding

Grants for projects to carry out the purposes of this part may be made to local educational agencies (subject to the provision of subsection (c) of this section relating to the participation of private elementary and secondary school pupils), institutions of higher education, and other public and nonprofit agencies and institutions. Not less than 70 per centum of the amount allotted to a State under this part for any fiscal year shall be made available by the State for grants to local educational agencies within that State.

(c) Participation of children enrolled in private elementary and secondary schools

The provisions of section 2740(a) of this title relating to the participation of children enrolled in private elementary and secondary schools shall apply to programs assisted under this part.

(d) Applications; development, contents, etc.

Each application by a local educational agency within a State for assistance under this part shall be developed in conjunction with teachers and building administrators in such district. The application shall set forth a systematic strategy for improving basic skills instruction in the local district which provides for the planning and implementation of comprehensive basic skills instructional programs at the school building level. The school level programs shall address the needs of all students and shall utilize, in a coordinated fashion, resources available from all Federal, State, and local sources. Teachers, administrators, and parents shall be involved in the development of the comprehensive school level programs. Such programs shall include—

(1) diagnostic assessment to identify the needs of all of the children in the school;

(2) the establishment of learning goals and objectives for the school;

(3) to the extent practicable, preservice training and inservice training and development programs for teaching and administrative personnel, including teacher-aides and other ancillary educational personnel, designed to enable such personnel to improve their ability to teach students the basic skills;

(4) activities designed to enlist the support of parents to aid in the instruction of their children at home and school;

(5) procedures for the evaluation of the effectiveness of the program, including a program of periodic testing of basic skills achievement and the publication of test results on basic skills performance by grade level and by school, without identification of performance of individual children;

(6) assessment, evaluation, and collection of information on individual children by teachers during each year of a pre-elementary program, to be made available for teachers in the subsequent year, in order that continuity for the individual child not be lost. Such information shall also be available to parents or guardians of the individual children.

(e) Additional activities subject to assistance and support

In addition to the grants authorized in subsection (d) of this section, the State educational agency may also make grants to support activities designed to enlist the assistance of parents working with schools to improve the skills of their children in reading, mathematics, and oral and written communication. Activities that may be supported under this section include—

(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills;

(2) the encouragement of closer contacts between parents and teachers to improve the coordination between learning experiences in the home and those in school;

(3) planning for, developing and improving centers accessible to parents to provide materials and professional guidance, including volunteers, for parents who desire to assist in the instruction of their children; and

(4) the demonstration of training programs for parents who desire to develop new skills to complement the instruction their children receive in school.

(f) Mandatory agreement with State

The Secretary shall enter into an agreement which complies with the provisions of subsection (a) of this section with any State which desires to enter into such an agreement.

(Pub. L. 89-10, title II, § 222, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2205, and amended Pub. L. 96-46, § 1(12), Aug. 6, 1979, 93 Stat. 339.)

AMENDMENTS

1979—Subsec. (c). Pub. L. 96-46 substituted "section 2740(a) of this title" for "section 2740(a)(1) of this title".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2903 of this title.

§ 2903. Distribution of funds

The Secretary shall distribute grants under the provisions of this part so as to assure that each State having an agreement under section 2902 of this title will receive not less than the amount which bears the same ratio to the total amount available for this part for a fiscal year as the number of school-age children (aged five through seventeen inclusive) in that State bears to the number of such children in all States, except that any State having an agreement shall not receive less than $50,000 in any such fiscal year.

(Pub. L. 89-10, title II, § 223, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2207.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2904. State leadership program

The Secretary is authorized to enter into agreement with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to implement programs which have been demonstrated in that State or other States to be effective in overcoming deficiencies in the basic skills, and to develop and implement statewide plans for improving the skills of children, youth, and adults in reading, mathematics, and oral and written communication. The activities authorized by this section shall be limited to—

(1) the development of a comprehensive statewide program providing for the coordination of all Federal and State programs that provide instruction in basic skills;

(2) planning activities that involve local administrators, teachers, and parents in the development of strategies to improve instruction in basic skills;

(3) statewide assessments of need relating to basic skills, including the needs of both students and instructional personnel;

(4) in-service training programs for local administrators, instructional personnel, and other staff members involved in instruction in basic skills; and

(5) the provision of technical assistance and the dissemination of information relating to basic skills instruction to local educational agencies and other organizations and institutions involved in programs of instruction in basic skills.

(Pub. L. 89-10, title II, § 224, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2207.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART C—SPECIAL PROGRAMS FOR IMPROVING BASIC SKILLS

§ 2911. Inexpensive book distribution program for reading motivation

(a) Contracting authority; payment of Federal share

The Commissioner is authorized (1) to enter into a contract with a private nonprofit group or public agency (hereinafter in this section referred to as the "contractor"), which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivational programs which include the distribution of inexpensive books to students and (2) to pay the Federal share of the cost of such programs.

(b) Contents of contract

The contract shall provide that—

(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as "subcontractors") under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift or loan, to pre-elementary, elementary or secondary schoolchildren;

(2) funds made available by the Commissioner to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1); and

(3) the contractor will meet such other conditions and standards as the Commissioner determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide technical assistance in furtherance of the purposes of this section.

(c) Payment requirements

The Commissioner shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless he determines that the contractor or the subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

(d) Definitions

For purposes of this section—

(1) the term "nonprofit", when used in connection with any organization, means an organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(2) the term "Federal share" means, with respect to the cost of books purchased by a local private nonprofit group, organization, or public agency for a program in a locality for distributing such books to school children in that locality, 75 per centum of the cost of that agency or group or organization for such books for such program; except when such nonprofit group, organization or public agency has within the two years preceding its application for assistance, received Federal funds under a program to benefit migrant and seasonal farmworkers in which the Federal share was 100 per centum. In that case the term "Federal share", under this section, shall mean 100 per centum of the cost of that agency or group or organization for such books that are distributed to the children of migrant and seasonal farmworkers; and

(3) the term "pre-elementary school" means a day or residential school which provides pre-elementary education, as determined under State law, except that such term does not include education for children who have not attained three years of age.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section $9,000,000 for fiscal year 1979, $10,000,000 for fiscal year 1980, $11,000,000 for fiscal year 1981, and $12,000,000 for each of the two succeeding fiscal years. Under such conditions as the Commissioner determines to be appropriate, not to exceed 10 per centum of the amounts appropriated for each fiscal year shall be available for a contract from the Commissioner to the contractor designated under subsection (a) of this section for technical assistance under subsection (b)(3) of this section to carry out the provisions of such section.

(Pub. L. 89-10, title II, § 231, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2208.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and

Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2912. Special mathematics program; authorization of appropriations

(a) The Commissioner is authorized to make grants to, and enter into contracts with, one or more private nonprofit agencies, institutions, or organizations, for the conduct, in cooperation with one or more local educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under subchapters I and VI of this chapter through instruction in advanced mathematics by qualified instructors with bachelor's degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience.

(b) There are authorized to be appropriated such sums as may be necessary for fiscal year 1980 and for each of the three succeeding fiscal years, to carry out the provisions of this section.

(Pub. L. 89-10, title II, § 232, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2209.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART D—GENERAL PROVISIONS

§ 2921. Authorization of appropriations

There are authorized to be appropriated such sums for the fiscal year 1980 and for each succeeding fiscal year ending prior to October 1, 1983, as may be necessary to carry out the provisions of parts A and B of this subchapter.

(Pub. L. 89-10, title II, § 241, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2209.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2922 of this title.

§ 2922. Apportionment of appropriations

(a) From the first $20,000,000 appropriated pursuant to section 2921 of this title of any fiscal year the Secretary shall carry out the provision of part A of this subchapter.

(b) From the amounts in excess of $20,000,000 in any fiscal year the Secretary shall carry out the provisions of part B of this subchapter.

(Pub. L. 89-10, title II, § 242, as added Pub. L. 95-561, title II, § 201, Nov. 1, 1978, 92 Stat. 2209.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER III—SPECIAL PROJECTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 244, 1231b-1, 3082, 3381 of this title.

PART A—GENERAL PROVISIONS

§ 2941. Statement of purpose

It is the purpose of this subchapter to authorize the Commissioner to carry out special projects—

(1) to experiment with new educational and administrative methods, techniques, and practices;

(2) to meet special or unique educational needs or problems;

(3) to place special emphasis on national education priorities; and

(4) to disseminate information to State and local educational agencies.

(Pub. L. 89-10, title III, § 301, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2210.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2 of the act July 26, 1954, ch. 576, as added Aug. 21, 1974, Pub. L. 93-380, title IV, § 402(a)(1), 88 Stat. 544, which was classified to section 1851 of this title prior to its repeal by Pub. L. 95-561.

A prior section 301 of Pub. L. 89-10, title III, Apr. 11, 1965, 79 Stat. 39, was classified to section 841 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2942. Grants and contracts authorized

(a) The Commissioner is authorized, during the period of October 1, 1979, through September 30, 1983, to make grants to, and enter into contracts with, State and local educational agencies, other public and private agencies, organizations, and institutions, and individuals to carry out the purposes of this subchapter, except that no grant may be made under this subchapter to other than a public agency or nonprofit private organization, or institution, or to an individual under section 2943(b) of this title.

(b) No grant or contract may be awarded under this subchapter to a State or local educational agency unless the Commissioner determines that in designing the proposal for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with private school officials; and, to the maximum extent feasible, and consistent with the number of such children in the area to be served who have the educational needs the proposal is intended to address, those children will be provided an opportunity to participate in the proposed activity on a basis comparable to that provided for public schoolchildren.

(Pub. L. 89-10, title III, § 302, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2210.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 3 of the act July 26, 1954, ch. 576, as added Aug. 21, 1974, Pub. L. 93-380, title IV, § 402(a)(1), 88 Stat. 544, which was classified to section 1852 of this title prior to its repeal by Pub. L. 95-561.

A prior section 302 of Pub. L. 89-10, title III, Apr. 11, 1965, 79 Stat. 40, was classified to section 842 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2943. Discretionary projects of Commissioner

(a) Granting or contracting authority for innovative or experimental projects

From the amount available for the purposes of this section, the Commissioner is authorized, through grants or contracts, to carry out innovative or experimental projects to assist in the development or demonstration of methods, techniques, or practices which contribute to the solution of educational problems and which are consistent with the purposes of this subchapter.

(b) Additional granting authority for development or demonstration of innovative methods or techniques

The Commissioner is also authorized, from the amount available for the purposes of this section, to make grants not to exceed $25,000, to teachers, administrators, other educational personnel, and parent organizations to assist in the development or demonstration of innovative methods or techniques which would contribute to the solution of educational problems. Any grant to an individual who is employed by a local educational agency shall be made only if the Commissioner determines that the agency has had an opportunity to comment on the proposal and will cooperate with the grantee in carrying out the proposed activity.

(c) Additional granting and contracting authority for programs in energy conservation; use of materials

The Commissioner is also authorized, from the amount available for the purpose of this section, to make grants and enter into contracts for—

(1) the development of curricula, and the dissemination of information relating to the improvement of teaching energy conservation to elementary and secondary school children, and

(2) the training of personnel to teach energy conservation to such children.

In carrying out the provisions of this subsection, the Commissioner shall use to the maximum extent practicable materials developed by the Department of Energy, the Community Services Administration, and the Department of Housing and Urban Development.

(d) Authorization of appropriations; reservation of funds

(1) There are authorized to be appropriated for the purposes of this section such sums as may be necessary for fiscal year 1980 and for each of the three succeeding fiscal years.

(2) From the sums appropriated for any fiscal year for the purposes of this subchapter (other than sums appropriated pursuant to paragraph (1) of this subsection), the Commissioner may reserve not more than 10 percent of such sums for the purposes of this section. The Commissioner shall not reserve from sums appropriated for any fiscal year for any part of this subchapter (other than sums appropriated pursuant to paragraph (1) of this subsection) more than 10 percent from the sums so appropriated for each such part.

(Pub. L. 89-10, title III, § 303, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2210.)

PRIOR PROVISIONS

A prior section 303 of Pub. L. 89-10, title III, Apr. 11, 1965, 79 Stat. 40, was classified to section 843 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2942, 2971, 2986, 3041, 3062 of this title.

PART B—METRIC EDUCATION

§ 2951. Short title; declaration of purpose

(a) This part may be cited as the "Metric Education Act of 1978".

(b)(1) The Congress finds that—

(A) the metric system of measurement is in general use in industrially developed nations and its use is increasing;

(B) increased use of such metric system in the United States is inevitable, and such a metric system will become the dominant system of weights and measures in the United States; and

(C) a Federal program is vitally necessary if the American people are to adapt to the use of the metric system of weights and measures.

(2) It is the purpose of this part to encourage and support programs that prepare students to use the metric system of measurement with ease and facility as a part of the regular education program.

(Pub. L. 89-10, title III, § 311, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2211.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 403 of Pub. L. 93-380, title IV, Aug. 21, 1974, 88

Stat. 546, which was classified to section 1862 of this title prior to the repeal of that section by Pub. L. 95-561.

§ 2952. Program authorized; definition

(a) The Commissioner shall carry out a program of grants and contracts to encourage educational agencies and institutions to prepare students to use the metric system of measurement. Activities assisted under this part may include—

(1) the development, demonstration, improvement, or adaptation of programs of education in the use of the metric system;

(2) training educational personnel to carry out programs in the use of the metric system;

(3) the development and dissemination of instructional materials for use in metric education programs; and

(4) other activities that will encourage and assist students to learn the use of the metric system.

(b) For the purposes of this part, the term "metric system of measurement" means the international system of units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

(Pub. L. 89-10, title III, § 312, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2211.)

Prior Provisions

Provisions similar to this section were contained in section 403 of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 546, which was classified to section 1862 of this title prior to the repeal of that section by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2953. Application

Financial assistance under this part may be made only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably prescribe. The application shall be approved only if it—

(1) provides that the activities and services for which assistance is sought will be administered by, or under the supervision of, the applicant;

(2) describes a program which holds promise of making a substantial contribution toward attaining the purpose of this part;

(3) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application; and

(4) contains such other provisions as the Commissioner determines necessary in order to accomplish the purpose of this part.

(Pub. L. 89-10, title III, § 313, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2212.)

Prior Provisions

Provisions similar to this section were contained in section 403 of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 546, which was classified to section 1862 of this title prior to the repeal of that section by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2954. Authorization of appropriations

There are authorized to be appropriated $20,000,000 for the fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this part.

(Pub. L. 89-10, title III, § 314, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2212.)

Prior Provisions

Provisions similar to this section were contained in section 403 of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 546, which was classified to section 1862 of this title prior to the repeal of that section by Pub. L. 95-561.

Part C—Arts in Education

§ 2961. Short title; statement of findings

(a) This part may be cited as the "Arts in Education Act of 1978".

(b)(1) The Congress finds that—

(A) the arts should be an essential and vital component of every student's education;

(B) the arts provide students with useful insights to all other areas of learning; and

(C) a Federal program is necessary to foster and maintain the interrelationship of arts and education.

(2) It is the purpose of this part to encourage and support programs that recognize and stress the essential role the arts can play in elementary and secondary education.

(Pub. L. 89-10, title III, § 321, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2212.)

Prior Provisions

Provisions similar to this section were contained in section 409 of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 556, which was classified to section 1867 of this title prior to the repeal of that section by Pub. L. 95-561.

§ 2962. Program authorized

The Commissioner shall carry out a program of grants and contracts to encourage and assist State and local educational agencies and other public and private agencies, organizations, and institutions to establish and conduct programs in which the arts are an integral part of elementary and secondary school curricula. Activities carried out under this part may include arrangements with public and private cultural organizations, agencies, and institutions, including museums, libraries, and theaters, to achieve the purpose of this part. Furthermore, the Commissioner may carry out a program to develop and implement model projects and programs in the performing arts for children and youth, through arrangements made with the John F. Kennedy Center for the Performing Arts. In addition, the Commissioner may carry out a program for the purpose of identifying, developing, and implementing model projects or programs in all the arts for handicapped persons through arrangements made with the National Committee, Arts for the Handicapped.

(Pub. L. 89-10, title III, § 322, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2212.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 409 of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 556, which was classified to section 1867 of this title prior to the repeal of that section by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2963. Authorization of appropriations

There are authorized to be appropriated $20,000,000 for the fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this part.

(Pub. L. 89-10, title III, § 323, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2213.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 409 of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 556, which was classified to section 1867 of this title prior to the repeal of that section by Pub. L. 95-561.

PART D—PRESCHOOL PARTNERSHIP PROGRAMS

§ 2971. Establishment of program

(a) Cooperative efforts to carry out program purposes

The Commissioner is directed to establish, in cooperation with the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare, a program of cooperative pilot projects between local educational agencies and Project Head Start, as authorized by the Headstart-Follow Through Act [42 U.S.C. 2921 et seq.], which will provide a smoother and more successful transition to formal schooling for certain preschool-aged children, and thereby improve their long-term achievement in elementary school.

(b) Implementation requirements for projects established

Projects established under this program will be designed to achieve the purposes of subsection (a) of this section by—

(1) providing to a limited number of children aged three to four, inclusive, of low-income families and to their parents, families, or guardians a program of educational services including instruction, counseling, and testing, to be conducted primarily in the child's home;

(2) providing to children and adults who have participated in the services described above, during the following year appropriate educational services, testing, and counseling, to be primarily conducted on the premises of an elementary school; and

(3) providing a coordinated program of testing and assessment, along with such other evaluation procedures as the Commissioner and the Assistant Secretary shall deem appropriate, designed to assess the achievement of children during their participation in the program and subsequently at the end of each of the first two years of formal schooling.

(c) Additional programs subject to funding

Funds provided under this part may also be used to fund early childhood and family education programs for children below kindergarten age. Such programs may include—

(1) the identification of potential barriers to learning;

(2) education of parents in child development, including education of parenthood programs for secondary school students; and

(3) home-based programs of early childhood and family education.

(d) Availability of funds

Not less than 10 percent of the funds made available for purposes of section 2943 of this title for each fiscal year shall be made available for purposes of this part.

(Pub. L. 89-10, title III, § 325, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2213.)

REFERENCES IN TEXT

The Headstart-Follow Through Act, referred to in subsec. (a), is title V of Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 527, as amended, which is classified generally to subchapter V (§ 2921 et seq.) of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 2921 of Title 42 and Tables.

CHANGE OF NAME

The Department of Health, Education, and Welfare was redesignated the Department of Health and Human Services by section 3508 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART E—CONSUMER EDUCATION

§ 2981. Short title; statement of findings

(a) This part may be cited as the "Consumer Education Act of 1978".

(b) The Congress finds that—

(1) in an inflated economy, the American consumer is finding that the dollar is buying less and less;

(2) the consumer needs useful information in order to make wise economic choices; and

(3) Federal involvement is needed to encourage and support the development of consumer education programs throughout the country.

(Pub. L. 89-10, title III, § 331, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2214.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 811 of Pub. L. 89-10, title VIII, as added Pub. L. 92-318, title V, § 505(a)(3), June 23, 1972, 86 Stat. 348, which was classified to section 887d of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

EX. ORD. NO. 12160. ENHANCEMENT AND COORDINATION OF FEDERAL CONSUMER PROGRAMS

Ex. Ord. No. 12160, Sept. 26, 1979, 44 F.R. 55787, provided:

By virtue of the authority vested in me as President by the Constitution of the United States of America, and in order to improve the management, coordination, and effectiveness of agency consumer programs, it is ordered as follows:

1-1. ESTABLISHMENT OF THE CONSUMER AFFAIRS COUNCIL

1-101. There is hereby established the Consumer Affairs Council (hereinafter referred to as the "Council").

1-102. The Council shall consist of representatives of the following agencies, and such other officers or employees of the United States as the President may designate as members:

(a) Department of Agriculture.
(b) Department of Commerce.
(c) Department of Defense.
(d) Department of Energy.
(e) Department of Health, Education, and Welfare.
(f) Department of Housing and Urban Development.
(g) Department of the Interior.
(h) Department of Justice.
(i) Department of Labor.
(j) Department of State.
(k) Department of Transportation.
(l) Department of the Treasury.

Each agency on the Council shall be represented by the head of the agency or by a senior-level official designated by the head of the agency.

1-2. FUNCTIONS OF THE COUNCIL

1-201. The Council shall provide leadership and coordination to ensure that agency consumer programs are implemented effectively; and shall strive to maximize effort, promote efficiency and interagency cooperation, and to eliminate duplication and inconsistency among agency consumer programs.

1-3. DESIGNATION AND FUNCTIONS OF THE CHAIRPERSON

1-301. The President shall designate the chairperson of the Council (hereinafter referred to as the "Chairperson").

1-302. The Chairperson shall be the presiding officer of the Council and shall determine the times when the Council shall convene.

1-303. The Chairperson shall establish such policies, definitions, procedures, and standards to govern the implementation, interpretation, and application of this Order, and generally perform such functions and take such steps, as are necessary or appropriate to carry out the provisions of this Order.

1-4. CONSUMER PROGRAM REFORMS

1-401. The Chairperson, assisted by the Council, shall ensure that agencies review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed. Agency consumer programs should be tailored to fit particular agency characteristics, but those programs shall include, at a minimum, the following five elements:

(a) *Consumer Affairs Perspective.* Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation.

(b) *Consumer Participation.* Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

(c) *Informational Materials.* Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them.

(d) *Education and Training.* Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations.

(e) *Complaint Handling.* Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy.

1-402. The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers of particular policy initiatives under development or review within the agency.

1-5. IMPLEMENTATION OF CONSUMER PROGRAM REFORMS

1-501. Within 60 days after the issuance of this Order, each agency shall prepare a draft report setting forth with specificity its program for complying with the requirements of Section 1-4 above. Each agency shall publish its draft consumer program in the Federal Register and shall give the public 60 days to comment on the program. A copy of the program shall be sent to the Council.

1-502. Each agency shall, within 30 days after the close of the public comment period on its draft consumer program, submit a revised program to the Chairperson. The Chairperson shall be responsible, on behalf of the President, for approving agency programs for compliance with this Order before their final publication in the Federal Register. Each agency's final program shall be published no later than 90 days after the close of the public comment period, and shall include a summary of public comments on the draft program and a discussion of how those comments are reflected in the final program.

1-503. Each agency's consumer program shall take effect no later than 30 days after its final publication in the Federal Register.

1-504. The Chairperson, with the assistance and advice of the Council, shall monitor the implementation by agencies of their consumer programs.

1-505. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report on government-wide progress under this Order during the previous fiscal year. In addition, the Chairperson shall evaluate, from time to time, the consumer programs of particular agencies and shall report to the President as appropriate. Such evaluations shall be informed by appropriate consultations with interested parties.

1-6. BUDGET REVIEW

1-601. Each agency shall include a separate consumer program exhibit in its yearly budget submission to the Office of Management and Budget. By October 1 of each year the Director of the Office of Management and Budget shall provide the Chairperson with a copy of each of these exhibits. The Chairperson shall thereafter provide OMB with an analysis of the adequacy of the management of, and the funding and staff levels for, particular agency consumer programs.

1-7. CIVIL SERVICE INITIATIVES

1-701. In order to strengthen the professional standing of consumer affairs personnel, and to improve the recruitment and training of such personnel, the Office of Personnel Management shall consult with the Council regarding:

(a) the need for new or revised classification and qualification standard(s), consistent with the requirements of Title 5, United States Code, to be used by agencies in their classification of positions which include significant consumer affairs duties;

(b) the recruitment and selection of employees for the performance of consumer affairs duties; and

(c) the training and development of employees for the performance of such duties.

1-8. ADMINISTRATIVE PROVISIONS

1-801. Executive agencies shall cooperate with and assist the Council and the Chairperson in the performance of their functions under this Order and shall on a timely basis furnish them with such reports as they may request.

1-802. The Chairperson shall utilize the assistance of the United States Office of Consumer Affairs in fulfilling the responsibilities assigned to the Chairperson under this Order.

1-803. The Chairperson shall be responsible for providing the Council with such administrative services and support as may be necessary or appropriate; agencies shall assign, to the extent not inconsistent with applicable statutes, such personnel and resources to the activities of the Council and the Chairperson as will enable the Council and the Chairperson to fulfill their responsibilities under this Order.

1-804. The Chairperson may invite representatives of non-member agencies, including independent regulatory agencies, to participate from time to time in the functions of the Council.

1-9. DEFINITIONS

1-901. "Consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes.

1-902. "Agency" or "agencies" means any department or agency in the executive branch of the Federal government, except that the term shall not include:

(a) independent regulatory agencies, except as noted in subsection 1-804;

(b) agencies to the extent that their activities fall within the categories excepted in Sections 6(b)(2), (3), (4), and (6) of Executive Order No. 12044 [5 U.S.C. 553 note].

(c) agencies to the extent that they demonstrate within 30 days of the date of issuance of this Order, to the satisfaction of the Chairperson with the advice of the Council, that their activities have no substantial impact upon consumers.

JIMMY CARTER.

§ 2982. Office of Consumers' Education; appointment of Director

(a) There shall be within the Office of Education an Office of Consumers' Education (hereafter in this section referred to as the "Office") which shall be headed by a Director of Consumers' Education (hereafter in this section referred to as the "Director") who, subject to the management of the Commissioner, shall have responsibility for carrying out the provisions of this section.

(b) The Director shall be appointed by the Commissioner in accordance with the provisions of title 5 relating to appointments to the competitive service.

(Pub. L. 89-10, title III, § 332, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2214.)

REFERENCES IN TEXT

The provisions of title 5 relating to appointments to the competitive service, referred to in subsec. (b), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 811 of Pub. L. 89-10, title VIII, as added Pub. L. 92-318, title V, § 505(a)(3), June 23, 1972, 86 Stat. 348, which was classified to section 887d of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

EX. ORD. NO. 11583. OFFICE OF CONSUMER AFFAIRS

Ex. Ord. No. 11583, Feb. 24, 1971, 36 F.R. 3509, as amended by Ex. Ord. No. 11595, May 26, 1971, 36 F.R. 9763, provided:

Consumer protection fosters a market place in which our competitive economic system flourishes best. It is good for businessmen because it gives the consumer greater confidence in the goods and services provided by business. It is good for consumers because it reinforces the concept of buyers' rights:

—the right to make an intelligent choice among products and services;

—the right to accurate information on which to make a free choice;

—the right to expect that the health and safety of the buyer is taken into account by those who seek his patronage;

—the right to register dissatisfaction, and have a complaint heard and weighed, when a buyer's interests are badly served.

The Special Assistant to the President for Consumer Affairs is performing an important role in representing consumer interests in the Federal Government. It is important that the role of the office of the Special Assistant be reinforced by increasing its responsibilities and reemphasizing its importance.

There is need for a consumer office within the Executive Office of the President, which not only advises and represents the President on matters of consumer interest, but also analyzes and coordinates the implementation of all Federal activities in the field of consumer protection, helping to establish priorities and resolve conflicts, and recommending ways in which governmental consumer programs can be made more effective.

Now, Therefore, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

Section. 1. Office of Consumer Affairs. The Office of Consumer Affairs (hereinafter referred to as the "Office") is hereby established in the Executive Office of the President. The Office shall be headed by a Director, who shall be appointed by the President, and there shall be in the Office two Deputy Directors who shall also be appointed by the President. The Deputy Directors shall perform such duties as the Director may designate, and in case of a vacancy in the office of Director or during the absence or incapacity of the Director, the Deputy Directors, in the order designated by the President, shall act as Director. The Director and Deputy Directors shall receive compensation at such rates as the President, consonant with law, may hereafter determine.

Sec. 2. Powers and duties of the Director. (a) The Director shall be responsible for the exercise of the powers and the discharge of the duties of the Office, and shall have the authority to direct and supervise all personnel and activities thereof. The Director shall take all actions as may be necessary to organize the Office so as to carry out the functions and to achieve the purposes set forth in this order.

(b) In addition to any other authority conferred upon him by this order, the Director is authorized, in carrying out his functions hereunder, to—

(1) appoint one or more advisory committees composed of such private citizens and officials of the Federal, State, and local governments as he deems desirable to advise him with respect to his functions. Members of such committees (including the Consumer Advisory Council established in section 5 of this order) other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Director, shall be entitled to receive compensation and travel expenses as authorized by law for persons serving intermittently;

(2) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him or in the Office, and delegate authority for the performance of any function to any officer or employee under his direction and supervision;

(3) utilize, with their consent, the services, personnel, and facilities of other Federal, State, local and private agencies and instrumentalities with or without reimbursement thereof except as reimbursement may be required by law; and

(c) The Director shall report periodically to the President on significant developments affecting the interests of consumers together with such recommendations including legislative recommendations as he deems appropriate.

Sec. 3. Functions. (a) The Office shall advise the President as to all matters affecting the interest of consumers.

(b) The Office shall—

(1) with respect to consumer interests in Federal policies and programs, encourage and assist in development and implementation of consumer programs; coordinate and review policies and programs; seek resolution of conflicts; advise and make recommendations to Federal agencies with respect to policy matters, the effectiveness of their programs and operations, and the elimination of duplications;

(2) assure that the interests of consumers are presented and considered in a timely manner by the appropriate levels of the Federal Government in the formulation of policies and in the operation of programs that affect the consumer interest;

(3) conduct investigations, conferences, and surveys concerning the needs, interests and problems of consumers, except that it shall, where feasible, avoid duplicating activities conducted by other Federal agencies;

(4) submit recommendations to the President on how Federal programs and activities affecting consumers can be improved;

(5) take action with respect to consumer complaints to the extent authorized by section 4 of this order;

(6) perform the functions assigned to the President's Committee on Consumer Interests in Executive Order No. 11566 of October 26, 1970;

(7) encourage and coordinate the development of information of interest to consumers by Federal agencies and the publication and distribution of materials which will inform consumers of matters of interest to them in language which is readily understandable by the layman;

(8) encourage and coordinate research conducted by Federal agencies leading to improved consumer products, services, and consumer information;

(9) encourage, initiate, coordinate, evaluate, and participate in consumer education programs and consumer counseling programs;

(10) encourage, cooperate with, and assist State and local governments in the promotion and protection of consumer interests; and

(11) cooperate with and encourage private enterprise in the promotion and protection of consumer interest.

Sec. 4. Consumer complaints. (a) Whenever the Office receives from any source complaints or other information disclosing a possible violation of (1) any law of the United States or (2) any rule or order of any Federal agency concerning consumer interests, the Office shall promptly transmit such complaint or other information to the Federal agency charged with the duty of enforcing such law, rule, or order, for appropriate action.

(b) Whenever the Office receives complaints or other information disclosing any commercial or trade practice which it deems detrimental to the general interests of consumers within the United States, and which is not included within the category specified in subsection (a) of this section, the Office may transmit such complaint or other information promptly to the Federal, State, or local agency whose regulatory or other authority provides the most effective means to act upon them; the Office may in its discretion also refer such complaint or other information to the private persons or industry against whom the complaint is made.

Sec. 5. Consumer Advisory Council. (a) There is hereby established in the Office a Consumer Advisory Council to be composed of not more than 12 members appointed by the President. Members shall be appointed on the basis of their knowledge and experience in areas of interest to consumers and their demonstrated ability to exercise independent, informed, and critical judgment.

(b)(1) Members shall be appointed for two-year terms. Members of the Consumer Advisory Council, established pursuant to Executive Order No. 11136 of January 3, 1964, as amended, shall continue in office in accordance with the terms of their original appointments.

(2) Any member chosen to fill a vacancy shall be appointed for the unexpired term of the member he succeeds.

(3) A vacancy in the Council shall not affect its authority to act, and a majority of the members thereof shall constitute a quorum.

(c) The President shall designate the Chairman from among the members composing the Council. The Council shall meet at the call of the Director. The Director shall be an ex-officio member of the Council and its Executive Secretary.

(d) The Council shall advise the Director with respect to—

(1) policy matters relating to consumer interests; and

(2) the effectiveness of Federal programs and operations, which affect the interests of consumers; and

(3) problems of primary importance to consumers, and ways in which unmet consumer needs can appropriately be met through Federal Government action.

Sec. 6. Consideration of the consumer interest in Federal agency determinations. Every Federal agency in taking any action of a nature which can reasonably be construed as substantially affecting the interests of consumers of products and services, including, but not limited to, (1) the promulgation of rules, regulations, or guidelines, (2) the formulation of written policy decisions, or (3) the issuance of orders, decrees, or standards, shall, in taking such action, give due consideration to the valid interests of consumers.

Sec. 7. Abolition of Committee and Council. Except as otherwise provided herein, the President's Committee on Consumer Interests and the Consumer Advisory Council established under Executive Order No. 11136 of January 3, 1964, as amended by Executive Order No. 11349 of May 1, 1967, are abolished.

Sec. 8. Construction. Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal agency or the head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

Sec. 9. Orders superseded. Executive Order No. 11136 of January 3, 1964, and Executive Order No. 11349 of May 1, 1967, are hereby superseded.

Ex. Ord. No. 11702. Transfer of Office of Consumer Affairs

Ex. Ord. No. 11702, Jan. 25, 1973, 38 F.R. 2957, provided:

Under and by virtue of the authority vested in me by section 301 of title 3 of the United States Code [section 301 of title 3, The President] and as President of the United States of America, it is hereby ordered as follows:

Section 1. The Office of Consumer Affairs, established by Executive Order No. 11583 of February 24, 1971, as amended by Executive Order No. 11595 of May 26, 1971 [set out as a note under this section], together with its functions, is hereby transferred from the Executive Office of the President to the Department of Health, Education, and Welfare. The Director of the Office of Consumer Affairs shall continue as the Special Assistant to the President for Consumer Affairs.

Sec. 2. In view of the establishment of the Council on Economic Policy, the Cabinet Committee on Economic Policy, together with its functions, is hereby abolished and Executive Order No. 11453 of January 24, 1969, is hereby revoked.

§ 2983. Program authorized; availability of funds

(a) The Commissioner shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private agencies, organizations and institutions (including libraries) to support research, demonstration, and pilot projects designed to provide consumer education to the public except that no grant may be made other than to a nonprofit agency, organization, or institution.

(b)(1) Funds appropriated for grants and contracts under this part shall be available for such activities as—

(A) the development of curricula (including interdisciplinary curricula) in consumer education;

(B) dissemination of information relating to such curricula;

(C) in the case of grants to State and local educational agencies and institutions of higher education, for the support of education programs at the elementary and secondary and higher education levels; and

(D) preservice and in-service training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with consumer education.

(2) In addition to the activities specified in the first sentence of this subsection, such funds may be used for projects designed to demonstrate, test and evaluate the effectiveness of any such activities, whether or not assisted under this section. Activities assisted pursuant to this section shall provide bilingual assistance when appropriate.

(Pub. L. 89-10, title III, § 333, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2214.)

Prior Provisions

Provisions similar to this section were contained in prior section 811 of Pub. L. 89-10, title VIII, as added Pub. L. 92-318, title V, § 505(a)(3), June 23, 1972, 86 Stat. 348, which was classified to section 887d of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in section 2984 of this title.

§ 2984. Application

Financial assistance under this part may be made available only upon application to the Commissioner. Each application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it—

(1) provides that the activities and service for which assistance is sought will be administered by, or under the supervision of, the applicant;

(2) describes a program for carrying out one or more of the activities described in section 2983(b) of this title which holds promise of making a substantial contribution toward attaining the purposes of this part;

(3) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

(4) sets forth policies and procedures which assure that Federal funds made available under this part for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

(5) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(6) provides for making an annual report and such other reports in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(Pub. L. 89-10, title III, § 334, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2215.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 811 of Pub. L. 89-10, title VIII, as added Pub. L. 92-318, title V, § 505(a)(3), June 23, 1972, 86 Stat. 348, which was classified to section 887d of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2985. Reports and evaluations

Each recipient of Federal funds under this part shall make such reports and evaluations as the Commissioner shall prescribe by regulation.

(Pub. L. 89-10, title III, § 335, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2215.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 811 of Pub. L. 89-10, title VIII, as added Pub. L. 92-318, title V, § 505(a)(3), June 23, 1972, 86 Stat. 348, which was classified to section 887d of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2986. Reservation of funds

From funds available for purposes of section 2943 of this title, not less than $5,000,000 shall be made available for each fiscal year to carry out this part.

(Pub. L. 89-10, title III, § 336, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2215.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 811 of Pub. L. 89-10, title VIII, as added Pub. L. 92-318, title V, § 505(a)(3), June 23, 1972, 86 Stat. 348, which was classified to section 887d of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

PART F—YOUTH EMPLOYMENT

§ 2991. Program authorized; activities implementing program

(a) The Commissioner shall carry out a youth employment program, the purpose of which shall be to prepare children to take their place as working members of society.

(b) The program carried out under this part shall support activities designed to—

(1) study the relationship of work to academic and intellectual achievement;

(2) develop ways to improve achievement in basic educational skills through work experience;

(3) enhance job opportunities for youths by coordinating educational activities with youth employment activities, particularly those carried out by the Secretary of Labor under the Comprehensive Employment and Training Act [29 U.S.C. 801 et seq.];

(4) encourage educational agencies and institutions to develop means to award academic credit for competencies derived from work experience; and

(5) provide technical assistance, information, training, and other assistance to eligible entities to develop programs to enable students more readily to make the transition from school to work.

(Pub. L. 89-10, title III, § 341, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2215.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (b)(3), is Pub. L. 92-203, Dec. 28, 1973, 87 Stat. 839, as amended, now known as the Comprehensive Employment and Training Act, which is classified generally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 2992. Authorization of appropriations

There is authorized to be appropriated $7,500,000 for the fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this part.

(Pub. L. 89-10, title III, § 342, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2216.)

PART G—LAW-RELATED EDUCATION

§ 3001. Short title; declaration of findings

(a) This part may be cited as the "Law-Related Education Act of 1978".

(b) The Congress finds and declares that—

(1) there is a widespread lack of understanding of how our system of law and legal institutions works;

(2) such an understanding is an essential component in developing faith and apprecia-

tion in our democratic system of government and in preparing our youth to be knowledgeable, responsible citizens; and

(3) there is an urgent need for Federal involvement designed to encourage and support the development of law-related education programs.

(Pub. L. 89-10, title III, § 346, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2216.)

§ 3002. Program authorized

(a) Granting and contracting authority

The Commissioner shall carry out a program of grants and contracts to encourage State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to provide law-related education programs.

(b) Definition

For the purposes of this part, the term "law-related education" means education to equip nonlawyers with knowledge and skills pertaining to the law, the legal process and the legal system, and the fundamental principles and values on which these are based.

(c) Application for financial assistance

Financial assistance under this part may be made available only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation.

(d) Availability of funds

Funds appropriated for grants and contracts under this part shall be available for activities such as—

(1) awareness activities, to provide educators, law-related personnel, and the public with an understanding of what law-related education is;

(2) support for new and ongoing programs in elementary and secondary schools, adult education, community organizations, and institutions of higher education, to provide law-related education, to develop materials and methods, to conduct pilot and demonstration projects, and to disseminate the products of these activities;

(3) clearinghouse and technical assistance, to collect and provide information and assistance on existing experience and resources to institutions, groups, agencies, organizations, and individuals to aid in establishing, improving, and expanding law-related education activities;

(4) training for educators and law-related personnel in the substance and practice of law-related education, including preservice and in-service seminars, workshops, institutes, and courses;

(5) research and evaluation, to study and improve the effectiveness of materials and methods in law-related education;

(6) involvement of law-related organizations, agencies and personnel, such as lawyers, law schools, law students, and law enforcement personnel, in the provision of law-related education activities; and

(7) youth internships for outside-the-classroom experience with the law and the legal system.

(Pub. L. 89-10, title III, § 347, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2216.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3003. Authorization of appropriations

There is authorized to be appropriated $15,000,000 for the fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this part.

(Pub. L. 89-10, title III, § 348, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2217.)

PART H—ENVIRONMENTAL EDUCATION

PRIOR PROVISIONS

Similar provisions were contained in Pub. L. 91-516, Oct. 30, 1970, 84 Stat. 1312, as amended, known as the Environmental Education Act, which was classified to chapter 35 (§ 1531 et seq.) of this title.

§ 3011. General provisions

(a) Short title

This part may be cited as the "Environmental Education Act of 1978".

(b) Declaration of findings

The Congress finds and declares that—

(1) the deterioration of the quality of the Nation's environment and of its ecological balance poses a serious threat to the strength and vitality of the people of the Nation;

(2) that this deterioration is in part due to poor understanding of the Nation's environment and of the need for ecological balance;

(3) that existing resources are not adequate for educating and informing citizens about environmental matters; and

(4) that the Federal Government should encourage and support efforts to educate citizens about environmental quality and ecological balance.

(c) Purpose

It is the purpose of this part to encourage and support the development of new and improved curricula to encourage understanding of policies, and support of activities designed to enhance environmental quality and maintain ecological balance while giving due consideration to the economic considerations related thereto; to demonstrate the use of such curricula in model educational programs and to evaluate the effectiveness thereof, to provide support for the initiation and maintenance of programs in environmental education at the elementary and secondary levels; to disseminate curricular materials and other information for use in educational programs throughout the Nation; to provide training programs for teachers, other educational personnel, public service personnel, and community, labor, and industrial and business leaders and employees, and government employees at State, Federal, and local levels; to provide for the planning of outdoor ecological study centers; to provide for community education programs on preserving and enhancing environmental quality and maintaining ecological balance; and to provide for the preparation and distribution of materials by mass media in dealing with the environment and ecology.

(Pub. L. 89-10, title III, § 351, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2217.)

§ 3012. Office of Environmental Education; appointment of Director

There is established within the Office of Education an Office of Environmental Education (referred to in this section as the "Office") which, under the supervision of the Commissioner, by regulation, shall be responsible for (1) the administration of the program authorized by section 3013 of this title and (2) the coordination of activities of the Office of Education which are related to environmental education. The Office shall be headed by a Director.

(Pub. L. 89-10, title III, § 352, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2218, and amended Pub. L. 96-88, title V, § 508(*l*)(1), Oct. 17, 1979, 93 Stat. 694.)

AMENDMENTS

1979—Pub. L. 96-88 struck out provision authorizing compensation of the Director at a rate not to exceed that prescribed for grade GS-17 in section 5332 of title 5.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-88, effective 180 days after the first Secretary takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3013. Program authorized; granting and contracting authority

(a) For the purposes of this part, the term "environmental education" means the educational process dealing with man's relationship with the Earth and his effect on the Earth and his relationship with his natural and man-made surroundings, and includes the relations of energy, population, pollution, resource allocation and depletion, conservation, transportation, technology, economic impact, and urban and rural planning to the total human environment.

(b)(1) The Commissioner shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, regional educational research organizations, and other public and private agencies, organizations, and institutions (including libraries and museums) to support research, demonstration, and pilot projects designed to educate the public on the problems of environmental quality and ecological balance, except that no grant may be made other than to a nonprofit agency, organization, or institution.

(2) Funds appropriated for grants and contracts under this part shall be available for such activities as—

(A) the development of curricula (including interdisciplinary curricula) in the preservation and enhancement of environmental quality and ecological balance;

(B) dissemination of information relating to such curricula and to environmental education, generally;

(C) in the case of grants to State and local educational agencies, or groups of such agencies, for the support of environmental education programs at the elementary and secondary education levels;

(D) preservice and in-service training programs and projects (including fellowship programs, institutes, workshops, symposia, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with environmental quality and ecology or to develop interdisciplinary strategies and programs of environmental quality and ecology and for public service personnel, Government employees and business, labor, and industrial leaders and employees;

(E) planning of outdoor ecological study centers;

(F) community education programs on environmental quality, including special programs for adults;

(G) preparation and distribution of materials suitable for use by the mass media in dealing with the environment and ecology; and

(H) establishing prize contests in the elementary and secondary schools in the area of energy, the emphasis to be placed upon stimulating new thinking about ways to better understand and solve the energy crisis.

In addition to the activities specified in the first sentence of this paragraph, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any such activities, whether or not assisted under this section.

(Pub. L. 89-10, title III, § 353, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2218.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3012, 3014, 3016, 3018 of this title.

§ 3014. Application

(a) Submission, form and contents; criteria for approval

Financial assistance under this part may be made available only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it—

(1) provides that the activities and services for which assistance is sought will be administered by, or under the supervision of, the applicant;

(2) describes a program for carrying out one or more of the activities described in section 3013(b)(2) of this title which holds promise of making a substantial contribution toward attaining the purposes of this part;

(3) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

(4) sets forth policies and procedures which assure that Federal funds made available under this part for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

(5) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(6) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) Additional approval requirements

Applications from local educational agencies for financial assistance under this part may be approved by the Commissioner only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

(c) Approval of amendments

Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulation, be subject to approval in the same manner as original applications.

(d) Funding requirements

Federal assistance to any program or project under this section, other than those involving curriculum development, dissemination of curricular materials, and evaluation, shall not exceed 80 per centum of the cost of such program for the first fiscal year of its operation, including costs of administration, unless the Commissioner determines, pursuant to regulations adopted and promulgated by the Commissioner establishing objective criteria for such determinations, that assistance in excess of such percentages is required in furtherance of the purposes of this section. The Federal share for the second year shall not exceed 60 per centum, and for the third year and each succeeding fiscal year 40 per centum. Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to plant, equipment, and services.

(Pub. L. 89-10, title III, § 354, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2219.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3015. Technical assistance

The Commissioner in cooperation with the heads of other agencies with relevant jurisdiction, shall insofar as practicable upon request, render technical assistance to local educational agencies, public and private nonprofit organizations, institutions of higher education, agencies of local, State, and Federal governments and other agencies deemed by the Commissioner to play a role in preserving and enhancing environmental quality and maintaining ecological balance. The technical assistance shall be designed to enable the recipient agency to carry on education programs which are related to environmental quality and ecological balance.

(Pub. L. 89-10, title III, § 355, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2220.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3016. Special grants

(a) Maximum amounts; recipients

In addition to the grants authorized under section 3013 of this title, the Commissioner, from the sums appropriated, shall have the authority to make grants, in sums not to exceed $10,000 annually, to nonprofit organizations such as citizens' groups, volunteer organizations working in the environmental field, and other public and private nonprofit agencies, institutions, or organizations for conducting courses, workshops, seminars, symposia, institutes, and conferences, especially for adults and community groups (other than the group funded).

(b) Priority

Priority shall be given to proposals demonstrating innovative approaches to environmental education.

(c) Evidence of longevity of existence of interested organization or group

For the purposes of this section, the Commissioner shall require evidence that the interested organization or group shall have been in existence one year prior to the submission of a proposal for Federal funds and that it shall submit an annual report on Federal funds expended.

(d) Proposal information

Proposals submitted by organizations and groups under this section shall be limited to the essential information required to evaluate them, unless the organization or group shall volunteer additional information.

(Pub. L. 89-10, title III, § 356, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2220.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3017. Administration

In administering the provisions of this part, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or private agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon. The Commissioner shall publish annually a list and description of projects supported under this part and shall distribute such list and description to interested educational institutions, citizens' groups, conservation organizations, and other organizations and individuals involved in enhancing environmental quality and maintaining ecological balance.

(Pub. L. 89-10, title III, § 357, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2220.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3018. Authorization of appropriations

(a) There is authorized to be appropriated $5,000,000 for the fiscal year 1979, $7,000,000 for the fiscal year 1980, $9,000,000 for the fiscal year 1981, $11,000,000 for the fiscal year 1982, and $13,000,000 for the fiscal year 1983 to carry out the provisions of this part. Funds appropriated under this part shall remain available to the Commissioner for the duration of this part in order to permit multiple-year funding of projects under this part.

(b) For each fiscal year, not to exceed $500,000 of the sums appropriated under this part shall be available for the purpose of carrying out section 3013(b)(2)(H) of this title.

(Pub. L. 89-10, title III, § 358, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART I—HEALTH EDUCATION

§ 3021. Short title; declaration of purpose

(a) This part may be cited as the "Health Education Act of 1978".

(b)(1) The Congress finds and declares that—

(A) there is an increased concern for physical health and wellbeing;

(B) an understanding of the principles of good health can play a vital role in preventing illness and diseases;

(C) a Federal program is needed to assist State and local educational agencies in developing health education programs.

(2) It is the purpose of this part to encourage and support programs that prepare students to maintain their physical health and wellbeing, and to prevent illnesses and diseases, as a part of the regular education program.

(Pub. L. 89-10, title III, § 361, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221.)

§ 3022. Program authorized

(a) The Commissioner is authorized to make grants to State and local educational agencies to establish and support programs in health education.

(b) Prior to establishing final regulations for making grants under this part, the Commissioner shall consult with the Assistant Secretary of Health, Education, and Welfare for Health and the Surgeon General to assure coordination and nonduplication of effort.

(Pub. L. 89-10, title III, § 362, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221.)

CHANGE OF NAME

The officials of the Department of Health, Education, and Welfare were redesignated officials of the Department of Health and Human Services by section 3508 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3023. Application

Financial assistance under this part may be made only upon application to the Commissioner. Each such application shall contain assurances that any funds received under this part will be used in a coordinated and cooperative manner with any other health education related program that the applicant may be undertaking, and shall not duplicate such other programs.

(Pub. L. 89-10, title III, § 363, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3024. Authorization of appropriations

There are authorized to be appropriated $10,000,000 for the fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this part.

(Pub. L. 89-10, title III, § 364, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221.)

PART J—CORRECTION EDUCATION

§ 3031. Short title

This part may be cited as the "Correction Education Demonstration Project Act of 1978".

(Pub. L. 89-10, title III, § 371, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2222.)

REFERENCES IN TEXT

This part, referred to in text, in the original read "this Act" but has been translated as "this part" to conform to the probable intent of Congress in view of the use of the words "this part" in the short title sections in parts B, C, E, G, H, I, and M of this subchapter.

§ 3032. Program authorized; application requirements

(a) The Commissioner is authorized to make grants to State and local educational agencies, institutions of higher education, and other public and private nonprofit agencies, organizations, and institutions for demonstration projects relating to the academic and vocational education of antisocial, aggressive, or delinquent persons, including juvenile delinquents, youth offenders, and adult criminal offenders. All projects shall include an evaluation component.

(b) Financial assistance under this part may be made available only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably prescribe.

(Pub. L. 89-10, title III, § 372, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2222.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3033. Technical assistance

The Commissioner is authorized to appoint such special or technical advisory committees as he may deem necessary to advise him on matters of general policy relating to the education of persons intended to be benefitted by this section, and shall secure the advice and recommendations of the Director, Bureau of Prisons; Administrator, Office of Juvenile Justice and Delinquency Prevention; Director of the Teacher Corps; the Director of the National Institute of Law Enforcement and Criminal Justice; the Administrator of the Law Enforcement Assistance Administration, and such other persons and organizations as he, in his discretion, deems necessary before making any grant under this section.

(Pub. L. 89-10, title III, § 373, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2222.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3034. Authorization of appropriations

There is authorized to be appropriated $5,000,000 for fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this part.

(Pub. L. 89-10, title III, § 374, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2222.)

PART K—DISSEMINATION OF INFORMATION

§ 3041. Allocation of funds

The Commissioner shall allocate at least 5 percent of the funds available for purposes of section 2943 of this title to collect, analyze, and disseminate information derived from activities carried out under this subchapter and under part C of subchapter IV of this chapter, including information as to which of those activities have been successful in improving the achievement of students in the basic skills.

(Pub. L. 89-10, title III, § 376, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2222.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART L—BIOMEDICAL SCIENCES

§ 3051. Findings and purpose

It is the purpose of this part to—

(1) introduce secondary students from an economically disadvantaged background to the challenges, opportunities, and needs of serving in communities which have a need for professionals trained in the biomedical sciences and which have an underrepresentation of individuals from such a disadvantaged background serving as medical professionals;

(2) motivate and educate these students to successfully pursue careers in the biomedical sciences;

(3) develop academic, cognitive, and communicative skills in these students;

(4) rectify disadvantages resulting from foreign language barriers; and

(5) instill awareness and concern in these students for the health of their families and communities;

by offering these students an intensive academic program in mathematics, the sciences, and English, study skill development, experiences in laboratory and health care delivery settings, and frequent exposure to individuals trained, or receiving training, in the biomedical sciences.

(Pub. L. 89-10, title III, § 381, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2223.)

§ 3052. Definitions

For the purposes of this part—

(1) The term "applicant" means an institution which has made application under section 3055 of this title for assistance under this part.

(2) The term "biomedical science" means a field relevant to the study of human biology, and includes chemistry, biology, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, and public health.

(3) The term "full participant" means with respect to a project conducted in an academic year, a student who has participated satisfactorily in the project for not less than one hundred hours in the academic year.

(4) The term "project" means a project funded under this part.

(5) The term "public secondary school system" means secondary schools operated by a local educational agency or a secondary school operated predominantly for Indian children and operated by, or receiving financial assistance from, the Department of the Interior.

(6) The term "school of biomedical science" means an institution of higher education which provides training leading to a doctorate or master's degree in a biomedical science.

(7) The term "student from an economically disadvantaged background" means an individual from a family which had, during the preceding year, an income equal to 50 per centum or less of the national median income for families of comparable size and (A) who is enrolled in good standing in the ninth, tenth, eleventh, or twelfth grade of a secondary school and (B) whose access to higher educational opportunity in the biomedical sciences is significantly limited due to the income of the individual's family.

(8) The term "talented student from an economically disadvantaged background" means a student from an economically disadvantaged background who has demonstrated such proficiency or potential as will enable the student, after satisfactory participation in a project, to undertake successfully a course of study in a biomedical science at an institution of higher education. Such proficiency or potential shall be determined in a manner such that (A) a student from a non-English speaking background is not penalized for the student's lack of proficiency in English, and (B) due notice is taken of difficulties inherent in traditional testing methods.

(9) The term "target student" means, with respect to a project offered in an academic year in cooperation with a secondary school system or systems, a talented student from an economically disadvantaged background who is enrolled in the school system or systems in the academic year—

(A) in the ninth or tenth grade, or

(B) in the eleventh or twelfth grade and who has participated satisfactorily in a project (or in a program comparable to a project) for not less than one hundred hours during the student's enrollment in the ninth or tenth grade in a school system.

(Pub. L. 89-10, title III, § 382, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2223.)

§ 3053. Projects for economically disadvantaged students

(a) Granting and contracting authority

To the extent provided in appropriation Acts, the Commissioner is authorized to make grants to and enter into contracts with institutions of higher education for the purpose of offering projects to educate, motivate, and encourage students from an economically disadvantaged background to pursue training at the undergraduate and graduate levels in the biomedical sciences.

(b) Approval of applications

The Commissioner, in his selection among applications meeting the requirements for approval under section 3055 of this title, shall (1) give priority to each such qualified application that proposes the offering of a program not previously offered, (2) give special consideration to each such qualified application that proposes the offering of a project to students enrolled in secondary schools located in a health manpower shortage area (designated under section 254e of title 42) or in a rural area, and (3) take into account the location where the project is proposed to be offered to assure that projects are offered in a diversity of geographic settings.

(c) Funding

The amount of money to be provided, under any grant or contract entered into for a project, for all its expenses (other than special expenses approved by the Commissioner for its summer program offered pursuant to section 3054(a)(10) of this title) for a single fiscal year may not exceed an amount equal to $2,400 for each talented student from an economically disadvantaged background who was a full participant in the project in the academic year ending in that fiscal year.

(Pub. L. 89-10, title III, § 383, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2224.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3054. Project activities; funding requirements

(a) Each project funded under this part shall—

(1) except as provided in subsection (b) of this section, extend over a multi-year grant or contract period of at least five academic years;

(2)(A) be carried out in cooperation with a public or private nonprofit secondary school system, or with a combination of such systems, which is located in the area in which the applicant is located and which has a relatively high proportion, as determined by the Commissioner, of students from an economically disadvantaged background enrolled in the secondary schools in such system, and (B) involve in a formal role in policymaking decisions in the project an individual who is employed at an administrative level, no lower than principal or dean, in a secondary school with target students who are participating in the project;

(3) be conducted, to the extent feasible, in a manner which does not conflict with a student's participation in extracurricular activities of the school in which he is enrolled;

(4) provide that not less than one hundred talented students from an economically disadvantaged background, who are enrolled in the ninth grade in such public or private nonprofit school system or systems in each academic year in which the project is offered, are full participants in the project in such academic year;

(5) provide for validation of the participation of a target student in such project by a science teacher or the parent or guardian of such student;

(6) make arrangements to use in such project—

(A) the research and other facilities and personnel of schools of biomedical science located in the area in which such project is offered;

(B) the special knowledge of individuals from economically disadvantaged backgrounds who live in the area in which such project is offered and who are employed in the biomedical sciences;

(C) the expertise of teachers in secondary schools and institutions of higher education located in the area in which such project is offered; and

(D) the talents and experience of other groups located in the area in which such project is offered, such as parent-teacher associations, foundations, civic groups, and professional organizations, which would further the goals of such project;

(7) expose target students to professionals trained in the biomedical sciences and to the resources of the biomedical sciences, including those described in paragraph (6), and such other academic and health-related experiences as are designed to—

(A) inform and educate such students to the challenges, opportunities, and needs of serving in the biomedical science professions;

(B) educate and motivate such students to pursue successful careers in the biomedical sciences;

(C) cultivate the development of academic, cognitive, and communication skills in such students; and

(D) instill awareness, concern, and information in such students for the health of their families and communities;

(8)(A) provide counseling to target students who are participating, and to individuals who were such students and who were full participants in an academic year, in the project on the range of opportunities available in the biomedical sciences upon completion of high school, college, and professional training, and on the financial and other prerequisites to pursue such opportunities, and (B) inform parents of participating students of the goals and structure of the project and provide opportunities for the involvement of these parents in the project;

(9) provide for the offering for target students, by a school of biomedical science during each academic year of such project, of a course or courses which—

(A) are in one or more of the biomedical sciences,

(B) encompass at least one hundred hours of classroom, laboratory, and field work experience, and

(C) use the facilities of such school, including laboratories, libraries, classrooms, audiovisual equipment, conference and meeting rooms, and other necessary facilities;

(10) provide for the offering—

(A) in the summer following each academic year of the project, and

(B) for each individual who was a target student and a full participant in the project in the previous academic year,

of a summer program of at least six weeks' duration and involving such academic study and other activities as promote the purposes of this part; and

(11) provide for the following (through qualitative assessments by a student's teachers and professors and through documentation of a student's cumulative grade point average in high school, scholastic aptitude test scores, acceptances to colleges and universities, and grade point average and major pursued during attendance at a college or university) of each individual who was a target student and a full participant in the project in an academic year in which the project is offered, to evaluate the impact of the project on the careers pursued by former participants in the project.

(b) The Commissioner may not provide funds under this part to an institution for a project (other than for the part of the project described in subsection (a)(11) of this section) during an academic year (hereinafter in this subsection referred to as the "project year") occurring after the second academic year of the project unless—

(1) the number of target students who were enrolled in the tenth grade and were full participants in the project in the academic year preceding the project year is not less than 50 per centum of the number of target students who were enrolled in the ninth grade and were full participants in the project in the second academic year preceding the project year; and

(2) not less than 50 per centum of the particular target students who were enrolled in the tenth or eleventh grade and were full participants in the project in the second academic year preceding the project year also were full participants in the project during the academic year preceding the project year.

(Pub. L. 89-10, title III, § 384, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2224.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3053, 3055, 3056 of this title.

§ 3055. Applications

(a) Any institution desiring assistance under this part shall make application therefor in accordance with the provisions of this part and other applicable law and with regulations of the Commissioner promulgated for the purposes of this part. The Commissioner shall approve an application under this part only if he determines that the project for which the application seeks assistance—

(1) will be operated by the applicant and that the applicant will carry out such project in accordance with this part; and

(2) will provide for the activities described in section 3054(a) of this title.

(b) In approving an application for assistance under this subchapter, the Commissioner shall insure that there is cooperation and coordination of efforts among the projects, including the exchange of materials and information among such projects.

(Pub. L. 89-10, title III, § 385, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2226.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3052, 3053 of this title.

§ 3056. Use of funds

(a) Funds appropriated to carry out projects under this part may be used to cover all or part of the cost of establishing and carrying out projects, including the cost of stipends, allowances, travel, and subsistence expenses (in such amounts as may be determined in accordance with regulations of the Commissioner) to target students during their participation in a summer program offered pursuant to section 3054(a)(10) of this title.

(b) Each target student who is participating on an essentially full-time basis in a project during the academic year may be paid a stipend in an amount not in excess of $30 per month, except in exceptional cases as determined by the Commissioner.

(Pub. L. 89-10, title III, § 386, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2227.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3057. Appropriations authorized

(a) Amounts

For the purpose of carrying out projects under this part, there are authorized to be appropriated $40,000,000 for the fiscal year 1979 and each of the four succeeding fiscal years.

(b) Amount available for evaluations

From the funds appropriated pursuant to subsection (a) of this section, an amount not to exceed 5 per centum thereof shall be used for the purpose of conducting evaluations of the projects authorized under this part.

(c) Availability of appropriated sums

Sums appropriated pursuant to this section shall remain available for expenditure and obligation on or before September 30, 1983.

(Pub. L. 89-10, title III, § 387, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2227.)

PART M—POPULATION EDUCATION

§ 3061. Short title

This part may be cited as the "Population Education Act".

(Pub. L. 89-10, title III, § 391, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2227.)

§ 3062. Program authorized

(a) Granting and contracting authority

The Commissioner, in consultation with the Deputy Assistant Secretary for Population Affairs, established by section 3505a of title 42, is authorized, from the sums available for purposes of this part, to carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, research organizations, and other public and private agencies, organizations, and institutions to implement a program of population education in elementary and secondary schools.

(b) Program and project activities

Funds available for grants and contracts under subsection (a) of this section shall be available for such activities as—

(1) preservice and inservice training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to incorporate population concepts into a broad array of subject fields such as geography, history, science, biology, social studies, and home economics;

(2) development and dissemination of teacher and student educational, training, and instructional materials, including the identification, evaluation, improvement, and adaptation of existing curricula and educational materials;

(3) research support to develop curriculum content and to evaluate programs and materials for the purpose of widespread dissemination;

(4) in the case of grants to State and local educational agencies, the support of population education programs at the elementary and secondary educational levels; and

(5) projects which demonstrate, test, and evaluate the effectiveness of the activities (described in clauses (1) through (4) of this subsection) whether or not assisted under this section.

Programs assisted under clauses (2) and (3) shall be carried out in cooperation with State and local educational agencies.

(c) Application; submission, form and contents

Applications for grants and contracts under this section shall be submitted at such time, in such form, and contain such information as the Commissioner shall prescribe.

(d) Clearinghouse on population education; establishment, etc.

The National Institute of Education shall establish or designate, with funds available under this part, a clearinghouse on population education for the purpose of evaluating, cataloging, and disseminating teacher and student materials on population. Such activities shall be carried out in coordination with related activities carried out under title X of the Public Health Service Act [42 U.S.C. 300 et seq.]. For the purposes of carrying out this subsection, the Commissioner is authorized to transfer from sums available for this part to the National Institute of Education sums not to exceed $500,000.

(e) Availability of funds

Not less than 10 percent of the funds available for purposes of section 2943 of this title shall be made available in each fiscal year for activities under subsection (b) of this section.

(Pub. L. 89-10, title III, § 392, as added Pub. L. 95-561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2227.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (d), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title X of the Public Health Service Act is classified generally to subchapter VIII (§ 300 et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

CHANGE OF NAME

The officials of the Department of Health, Education, and Welfare were redesignated officials of the Department of Health and Human Services by section 3508 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER IV—EDUCATIONAL IMPROVEMENT, RESOURCES, AND SUPPORT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1232d, 2890, 2912, 3141, 3150, 3381 of this title.

PART A—GENERAL PROVISIONS

§ 3081. Purpose

It is the purpose of this subchapter to provide financial assistance to State and local educational agencies—

(1) to strengthen the quality of elementary and secondary education through support of locally initiated projects and activities designed to improve educational practices;

(2) to assist local educational agencies in the acquisition of necessary books, materials, library resources, and instructional equipment; and

(3) to strengthen and expand programs of counseling and guidance services and testing of students in elementary and secondary schools.

(Pub. L. 89-10, title IV, § 401, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2229.)

PRIOR PROVISIONS

A prior section 401 of Pub. L. 89-10, title IV, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 535, was classified to section 1801 of this title prior to the complete revision of that Act by Pub. L. 95-561.

EFFECTIVE DATE

Section 402 of Pub. L. 95-561 provided that: "The amendments and repeals made by this title [enacting this subchapter] shall take effect October 1, 1979".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3122 of this title.

§ 3082. Authorization of appropriations

(a)(1) Subject to the provisions of paragraph (2), there is authorized to be appropriated such sums as may be necessary for obligation by the Commissioner during fiscal year 1980 and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under part B, relating to instructional materials and school library resources.

(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

(A)(i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part B was in effect, or

(ii) in the case of appropriations under this subsection for the first fiscal year in which part B is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for the fiscal year 1974, or for the preceding fiscal year, whichever is higher, under subchapter II of this chapter, and under title III [20 U.S.C. 441 et seq.] (except for section 305 [20 U.S.C. 445]) of the National Defense Education Act of 1958, and

(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(3) Whenever the requirements of paragraph (2) are not met, the Commissioner shall carry out programs under subchapter II of this chapter and under title III [20 U.S.C. 441 et seq.] (except for section 305 [20 U.S.C. 445]) of the National Defense Education Act of 1958 as in effect for the fiscal year 1978 (prior to the repeal or expiration thereof). In any fiscal year in which the provisions of the preceding sentence are in effect, sums equal to the sums authorized to be appropriated for such programs for fiscal year 1978 are authorized to be appropriated for such fiscal year.

(b)(1) Subject to the provisions of paragraph (2) there is authorized to be appropriated such sums as may be necessary for obligation by the Commissioner during the fiscal year 1980 and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under part C, relating to improvements in local educational practices.

(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

(A)(i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part C was in effect, or

(ii) in the case of appropriations under this subsection for the first fiscal year in which part C is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under subchapter III of this chapter (except for programs of testing, guidance, and counseling), subchapter V of this chapter, and sections 3287 and 3288 of this title, and

(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(3) Whenever the requirements of paragraph (2) are no[1] met, the Commissioner shall carry out programs under subchapter III of this chapter (except for programs of testing, guidance, and counseling), subchapter V of this chapter and sections 887 and 887a of this title in effect for fiscal year 1978 (prior to the repeal thereof). In any fiscal year in which the provisions of the preceding sentence are in effect, sums equal to the sums authorized to be appropriated for such programs for fiscal year 1978 are authorized to be appropriated for such fiscal year.

(c)(1) Subject to the provisions of paragraph (2) there is authorized to be appropriated the sum of $50,000,000 for obligation by the Commissioner during the fiscal year 1980, and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under part D, relating to formula grants for guidance, counseling, and testing.

(2) No funds are authorized to be appropriated for obligation by the Commissioner for any fiscal year unless—

(A)(i) the aggregate amount which would be appropriated under this subsection for part D is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part D is in effect; or

(ii) in the case of appropriations under this subsection for the first fiscal year in which part D is in effect, the amount is at least equal to $18,000,000, and

(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(3) Whenever the requirements of paragraph (2) are not met, the Commissioner shall carry out programs under part A of title V of the National Defense Education Act of 1958 [20 U.S.C. 481 et seq.] as in effect for fiscal year 1971 (prior to the expiration thereof). In any fiscal year in which the provisions of the preceding sentence are in effect, sums equal to the sums authorized to be appropriated for such programs for fiscal year 1978 are authorized to be appropriated for such fiscal year.

(d) There are authorized to be appropriated for obligation by the Commissioner during each fiscal year ending prior to October 1, 1983, such sums as may be necessary for the purpose of increasing the allotment under section 3083(a)(1) of this title for that year to any State to a level of funding which equals the amounts of funds received by that State for the fiscal year ending June 30, 1974, for programs under subchapter II, subchapter III, subchapter V of this chapter, and sections 3287 and 3288 of this title, and title III [20 U.S.C. 441 et seq.] (except for section 305 [20 U.S.C. 445]) of the National Defense Education Act of 1958.

---

[1] So in original. Probably should be "not".

(Pub. L. 89-10, title IV, § 402, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2229.)

REFERENCES IN TEXT

The National Defense Education Act of 1958, referred to in subsecs. (a), (c)(3), and (d), is Pub. L. 85-864, Sept. 2, 1958, 72 Stat. 1580, as amended. Title III of the National Defense Education Act of 1958 is classified generally to subchapter III (§ 441 et seq.) of chapter 17 of this title. Part A of title V of the National Defense Education Act of 1958 as in effect for fiscal year 1971 was classified generally to part A (§ 481 et seq.) of subchapter V of chapter 17 of this title and was subsequently omitted from the Code as no longer funded and as superseded. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

Sections 887 and 887a of this title, referred to in subsec. (b)(3), were omitted from the Code.

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 401 of Pub. L. 89-10, title IV, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 535, which was classified to section 1801 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

A prior section 402 of Pub. L. 89-10, title IV, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 537, was classified to section 1802 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3084 of this title.

§ 3083. Allotments to States

(a) Computation of amounts; definition

(1) From the amounts appropriated to carry out part B, part C, and part D of this subchapter for any fiscal year, the Commissioner shall allot to each State from each such amount an amount which bears the same ratio to that amount as the number of children aged five to seventeen, inclusive, in the State bears to the number of those children in all the States.

(2) For the purpose of this subsection, the term "State" shall not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(b) Reallotments; computation of amounts

The amount of any State's allotment under subsection (a) of this section for any fiscal year to carry out part B, part C, or part D, which the Commissioner determines will not be required for that fiscal year to carry out any of those parts shall be available for reallotment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the original allotments to those States under subsection (a) of this section for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Commissioner estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly realloted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) of this section for that year.

(c) Funding

There are authorized to be appropriated for each fiscal year for the purpose of this subsection amounts equal to not more than 1 per centum of each of the amounts appropriated for such year under part B, part C, and part D of this subchapter. The Commissioner shall allot each of the amounts appropriated pursuant to this subsection among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under part B, part C, and part D of this subchapter. In addition, for each fiscal year he shall allot from each of such amounts to (A) the Secretary of the Interior the amounts necessary (including not more than $75,000 for administration) for the programs authorized by each such part for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amounts necessary for the programs authorized by each such part for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this subchapter.

(Pub. L. 89-10, title IV, § 403, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2231.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 402 of Pub. L. 89-10, title IV, § 402, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 537, which was classified to section 1802 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

A prior section 403 of Pub. L. 89-10, title IV, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 538, the Elementary and Secondary Education Act of 1965, was classified to section 1803 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3082, 3084, 3085, 3101, 3111 of this title.

§ 3084. State plans

(a) Submission, form, and contents

A State shall be eligible to receive grants under this part if it has on file with the Commissioner a general State application under section 3141 or section 1232d of this title, whichever is applicable, and if it submits to the Commissioner a State plan at such times (not more often than once every three years) and in such detail as the Commissioner deems necessary, which—

(1) designates the State educational agency as the State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the State plan;

(2) sets forth a program under which funds paid to the State from its allotments under section 3083 of this title will be expended solely for the programs and purposes that meet the requirements set forth in part B, part C, and part D of this subchapter;

(3) provides assurances that the requirements of section 3086 of this title (relating to the participation of pupils and teachers in private elementary and secondary schools) will be met, or certifies that such requirements cannot legally be met in such State;

(4) describes the means by which the State educational agency will provide technical assistance to local educational agencies to enable them fully to participate in programs assisted under this subchapter;

(5) provides assurances that funds such agency receives from appropriations made under section 3082(b) of this title will be distributed among local educational agencies on an equitable basis, recognizing the competitive nature of the grantmaking except that the State educational agency shall provide assistance in formulating proposals and in operating programs to local educational agencies which are less able to compete due to small size or lack of local financial resources to distribute funds made available under this subchapter to local educational agencies; and describes the procedures the State will use;

(6) provides that local educational agencies applying for funds under part B and part D shall be required to submit applications for that program not more than than[1] once every three years;

(7) provides assurances that the aggregate amount to be expended per student or the aggregate expenditure by the State, its local educational agencies, and private schools in such State from funds derived from non-Federal sources for programs described in part B, section 3161 of this title, and part D, respectively, for the preceding fiscal year are not less than the amount per student expended or the aggregate expenditure for the second preceding fiscal year for each such part;

(8) provides that, for any fiscal year in which the provisions of section 3150(b)(2) of this title are not met, of the funds the State receives under section 3082 of this title for each fiscal year, the State will use for administration of the State plan not to exceed whichever of the following is greater: (A) 5 per centum of the amount so received ($75,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 3161 of this title, or (B) $225,000; and provides that the remainder of such funds shall be made available to local educational agencies to be used for the purposes of parts B, C, and D, respectively;

(9) provides that, for any fiscal year in which the provisions of section 3163(b) of this title are not met, not more than the greater of (A) 15 per centum of the amount which such State receives pursuant to section 3082(b) of this title for any fiscal year, or (B) the amount available by appropriation to such State in the fiscal year ending June 30, 1973 and periods covered by section 3111(a)(3) of this title as in effect in such year, shall be used for activities described in section 3161 of this title;

(10) sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this subchapter for any fiscal year will not be commingled with State funds;

(11) sets forth the means by which the State will make information and technical assistance available to private nonprofit school officials who desire to arrange for children in those schools to participate in Federal elementary and secondary education programs;

(12) sets forth a comprehensive plan for the coordination of Federal and State funds for training activities for educational personnel in the State including preservice and inservice training, which plan shall be developed with the involvement of teachers, professional associations, institutions of higher education, and other interested individuals; and

(13) provides that the State has established a State advisory council in accordance with subsection (b) of this section.

(b) State advisory council; appointment, duties, etc.

(1) The State advisory council shall—

(A) be appointed by the State educational agency or as otherwise provided by State law and be broadly representative of the cultural and educational resources of the State and of the public, including—

(i) teachers, principals, superintendents, and other professional employees of local educational agencies and private schools,

(ii) teachers from institutions of higher education,

---

[1] So in original. Second "than" probably should be deleted.

(iii) school librarians, personnel involved in operating media programs in local schools, and guidance counselors,

(iv) individuals from fields of professional competence in dealing with children needing special education because of physical or mental handicaps, specific learning disabilities, severe educational disadvantages, and limited English proficiency or because they are gifted or talented, and of professional competence in guidance and counseling, and

(v) parents, students, and other interested members of the public;

(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, the State plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under this subchapter;

(C) evaluate all programs and projects assisted under this subchapter; and

(D) prepare at least every three years and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner.

(2) Not less than ninety days before the beginning of any fiscal year for which funds will be available for carrying out this subchapter, each State shall certify the establishment of, and membership of (including the name of the person designated as Chairman), its State advisory council to the Commissioner.

(3) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and establish the time, place, and manner, of its future meetings, except that such council shall have not less than one public meeting each year at which the public is given an opportunity to express views concerning the administration and operation of this subchapter.

(4) Each State advisory council shall be authorized to obtain the services of such professional, technical, and clerical personnel, and to contract for such other services as may be necessary to enable them to carry out their functions under this subchapter, and the Commissioner shall assure that funds sufficient for these purposes are made available to each council from funds available for administration of the State plan.

(c) Approval of plan and modifications

The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsections (a) and (b) of this section.

(Pub. L. 89-10, title IV, § 404, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2232, and amended Pub. L. 96-46, § 1(13)-(15), Aug. 6, 1979, 93 Stat. 339.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 403 of Pub. L. 89-10, title IV, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 538, which was classified to section 1803 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

A prior section 404 of Pub. L. 89-10, title IV, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 540, was classified to section 1804 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

AMENDMENTS

1979—Subsec. (a)(7). Pub. L. 96-46, § 1(13), substituted "part B, section 3161 of this title," for "part B".

Subsec. (a)(8). Pub. L. 96-46, § 1(14), substituted "section 3161 of this title" for "section 3111(a) of this title".

Subsec. (a)(9). Pub. L. 96-46, § 1(15), substituted "section 3161 of this title" for "section 3101 of this title".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1232-1, 3111, 3121, 3150, 3163 of this title.

§ 3085. Payments to States

From the amounts allotted to each State under section 3083 of this title for carrying out the programs authorized by part B, part C, and part D, respectively, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan (after withholding any amount necessary pursuant to section 3086(g) of this title).

(Pub. L. 89-10, title IV, § 405, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2234.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 405 of Pub. L. 89-10, title IV, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 541, which was classified to section 1805 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3086. Participation of children enrolled in private schools

(a) Availability of secular, neutral, and nonideological services, materials, and equipment; contracts for services and materials

(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive

funds under this subchapter or which serves the area in which a program or project assisted under this subchapter is located who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this subchapter.

(2) If no program or project is carried out under part B in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit private agencies or organizations, under which children in private schools in that district are provided with services and materials under that part to the extent that would have occurred if the local educational agency had received funds under this subchapter.

(b) Determination of expenditures

Expenditures for programs pursuant to subsection (a) of this section shall be equal (consistent with the number of children to be served) to expenditures for programs under this subchapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this subchapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c) Control of funds and title to materials, equipment, and property; provision of services

(1) The control of funds provided under this subchapter and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this subchapter, and a public agency shall administer such funds and property.

(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this subchapter shall not be commingled with State or local funds.

(d) State prohibitions on participation; waiver of Federal statutory requirements

If a State is prohibited by law from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Commissioner shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e) State or local failure or unwillingness to participate; waiver of Federal requirements; withholding of allocation

(1) If the Commissioner determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d) of this section, the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of those services.

(f) Duration of determination respecting State or local failure or inability to participate

Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b) of this section.

(g) Payment of cost of services

When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this subchapter.

(h) Procedures applicable

(1) The Commissioner shall not take any final action under this section until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why that action should not be taken.

(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a proceeding under paragraph (1) of this subsection, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of

that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based this action, as provided in section 2112 of title 28.

(3) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 89-10, title IV, § 406, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2234.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 406 of Pub. L. 89-10, title VI, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 541, which was classified to section 1806 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3084, 3085, 3102, 3112, 3122, 3314, 3315 of this title.

PART B—INSTRUCTIONAL MATERIALS AND SCHOOL LIBRARY RESOURCES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 441, 2532, 2854, 3082, 3083, 3084, 3085 of this title.

§ 3101. Activities authorized

The amounts allotted to each State under section 3083 of this title for the purposes of this part shall be used to provide assistance to local educational agencies within that State—

(1) for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools which shall be used for instructional purposes only; and

(2) for the acquisition of instructional equipment and materials suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only.

(Pub. L. 89-10, title IV, § 421, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2236.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 421 of Pub. L. 89-10, title IV, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 542, Act of 1965, which was classified to section 1821 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3102 of this title.

§ 3102. Program requirements

(a) Funds available to a State under this part shall be distributed among local educational agencies in that State according to the enrollments in public and nonpublic schools within the school districts of those agencies, adjusted, in accordance with criteria prescribed by the Commissioner, to provide higher per pupil allocations to (1) local educational agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding payments made under subchapter I of this chapter) is no greater than the average per pupil expenditure in the State, and (2) local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is not the dominant language.

(b) Local educational agencies shall be given complete discretion (subject to the provisions of section 3086 of this title) in determining how funds they receive under this part will be divided among the purposes described in section 3101 of this title, except that the State educational agency shall insure that each local educational agency, in making that determination, has adopted appropriate procedures, including periodic consultation with teachers, librarians, media specialists and other professional staff in the schools, and private school officials, to coordinate the selection of equipment and materials under this part with curricula being carried out in the schools within that agency.

(Pub. L. 89-10, title IV, § 422, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2237.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 421 of Pub. L. 89-10, title IV, § 421, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 542, which was classified to section 1821 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART C—IMPROVEMENT IN LOCAL EDUCATIONAL PRACTICE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1231b-1, 2854, 2889, 3041, 3082, 3083, 3084, 3085, 3163 of this title.

§ 3111. Activities authorized

(a) The amounts allotted to each State under section 3083 of this title for the purpose of this part shall be used to provide assistance to local educational agencies within the State for activities that will improve the educational practices of those agencies, including—

(1) the development and demonstration of activities designed to address serious educational problems in elementary and secondary schools, including—

(A) the need for effective programs for children with special needs, such as educationally deprived children, gifted and talented children, and handicapped children,

(B) high rates of children who do not complete secondary school, and

(C) the need of children in private schools for improved educational services;

(2) encouraging the development and demonstration of improved means of carrying out programs for educationally deprived children in school attendance areas having high concentrations of children from low-income families;

(3) activities designed to improve the achievement of children in basic skills;

(4) activities to encourage the participation of parents in the education of their children;

(5) the development of programs to diagnose learning problems and assess the educational achievement of children, including children in nonprofit private schools;

(6) developing and implementing model plans to demonstrate effective means of improving school management and fully coordinating all the Federal, State, and local resources available in a school in a fashion designed to meet the individual needs of every child in that school;

(7) professional development programs for teachers, administrators, and other instructional personnel in the schools of such agencies;

(8) early childhood and family education programs for children not yet enrolled in kindergarten programs and below age six for activities related to the identification of potential barriers to learning, the education of parents in child development, home-based programs, and referral services; and

(9) programs to extent[1] the educational process beyond the school building through the use of other resources in the community, such as museums, businesses, cultural organizations, labor unions, and governmental agencies.

(b)(1) Funds available to the States under this part shall also be used (pursuant to State plans approved under section 3084 of this title) for the purpose of encouraging innovation and improvement in compensatory educational efforts. Such efforts may include—

(A) programs of grants to local educational agencies for summer bridge programs which provide students with continued academic improvement and stimulation during the summer months in order to preserve and increase the academic progress of such students in regular school year programs;

(B) programs of parent education which enable parents to better contribute to their children's academic progress by such means as the conducting of parent education or parenting programs which promote partnership between parents and teachers and help parents develop the skills necessary to motivate and assist such children;

(C) programs that provide retraining to improve the skills of teachers and other educational personnel to enable such personnel to meet better the specific educational needs of the children served by such personnel; and

(D) programs to develop educational materials for use by children in the home to improve student achievement in the basic skills.

(2) Each State shall ensure that not less than 50 per centum of those funds appropriated for any fiscal year which exceed the amount appropriated for this part for the fiscal year ending September 30, 1979, will be used for the purposes of programs described in paragraph (1).

(Pub. L. 89-10, title IV, § 431, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2237.)

PRIOR PROVISIONS

A prior section 431 of Pub. L. 89-10, title IV, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 543, was classified to section 1831 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3084, 3112 of this title.

§ 3112. Program requirements

(a) Amount and availability of funds

Funds may be provided to a local educational agency under this part for a particular activity for a period of not to exceed five fiscal years (excluding any period for which such agency received a planning grant for such activity), subject to the availability of appropriations for this part of each fiscal year. The amount provided to a local educational agency for any activity under this part shall decline after the third year, in accordance with criteria prescribed by the Commissioner, in order to ensure that successful practices developed with assistance under this part will be adopted and supported as part of the regular program of such agency.

(b) Allocation of sums; approval of activities

(1) From sums made available to each State under this part, the following sums shall be allocated for activities under section 3111(a)(6) of this title, relating to plans for improved school management and the coordinated use in schools of all available resources:

---

[1] So in original. Probably should be "extend".

(A) In fiscal year 1980, not less than 5 percent of any amount by which the amount available for this part in fiscal year 1980 exceeds the amount so available in fiscal year 1979.

(B) In fiscal year 1981 and in each succeeding fiscal year, not less than 10 percent of any amount by which the amount available for this part in such year exceeds the amount so available in fiscal year 1979.

(2) No activity under section 3111(a)(6) of this title shall be approved by the State educational agency unless the proposal therefor has been developed in consultation with, and has been approved by, a committee composed of administrators, teachers, other staff at the school, and parents whose children attend the school.

(c) Minimum amount for use in special programs or projects for handicapped children; definition

Not less than 15 per centum of the amount received by a State under this part in any fiscal year shall be used for special programs or projects meeting the purposes of this part for the education of handicapped children. For the purpose of this part, the term "handicapped children" has the meaning set forth in section 1401(1) of this title.

(d) Approval of application by State educational agency

Subject to section 3086(d) and (e) of this title, a State educational agency shall not approve the application of a local educational agency for assistance under this part unless the State educational agency determines that in designing the proposal to which that application relates, the needs of children in nonprofit private schools have been taken into account through consultation with private school officials and other means.

(Pub. L. 89-10, title IV, § 432, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2238.)

PRIOR PROVISIONS

A prior section 432 of Pub. L. 89-10, title IV, as added Pub. L. 93-380, title IV, § 401, Aug. 21, 1974, 88 Stat. 544, was classified to section 1832 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART D—GUIDANCE, COUNSELING, AND TESTING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 3082, 3083, 3084, 3085 of this title.

§ 3121. Program authorized; funding

(a) The Commissioner shall carry out a program for making grants to States (pursuant to State plans approved under section 3084 of this title) for—

(1) State leadership and supervisory services in the fields of guidance, counseling, and testing; and

(2) comprehensive guidance, counseling, and testing programs in elementary and secondary schools throughout the State, including such services as—

(A) elementary and secondary school counseling,

(B) in-service training for guidance and counseling personnel,

(C) supervision and leadership services at the local level,

(D) program planning and development,

(E) special guidance and counseling programs suited to meet the special needs for such programs by persons who are disadvantaged,

(F) a program of testing students in elementary and secondary schools, and

(G) evaluation of such programs.

(b) Of the sums allotted to any State for any fiscal year for the purposes of this part, not to exceed 7½ per centum shall be available for the purpose described in clause (1) of subsection (a) of this section.

(Pub. L. 89-10, title IV, § 441, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2239.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3122. Program requirements

Each local educational agency shall be given complete discretion (subject to the provisions of section 3086 of this title) in determining how funds it receives from appropriations made under section 3081(c)(1)(A) of this title will be divided among various programs described in this part.

(Pub. L. 89-10, title IV, § 442, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2240.)

§ 3123. Administration; funding

(a) The Commissioner shall establish or designate an administrative unit within the Office of Education for purposes of—

(1) carrying out provisions of this section;

(2) providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and, to the extent practicable, activities of State and local programs of guidance and counseling; and

(3) advising the Commissioner on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.

(b) The Commissioner may reserve an amount not to exceed 5 per centum of the sums appropriated for this part to carry out the provisions of this section.

(Pub. L. 89-10, title IV, § 443, as added Pub. L. 95-561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2240.)

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER V—STATE LEADERSHIP

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1232d, 3082, 3381 of this title.

Part A—Administration of Education Programs and Duties of the State Educational Agency

§ 3141. Single State application

(a) Submission; approval by State official, etc.

Each State which desires to participate in programs authorized under subchapter I and subchapter IV of this chapter shall submit to the Commissioner a general application containing the assurances set forth in subsection (b) of this section. That application may be submitted jointly for all programs covered by the application, or it may be submitted separately for each such program or for groups of programs. Each application submitted under this section must be approved by each official, agency, board, or other entity within the State which, under State law, is primarily responsible for supervision of the activities conducted under each program covered by the application.

(b) Required assurances

An application submitted under subsection (a) of this section shall set forth assurances, satisfactory to the Commissioner—

(1) that each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or organization if the statute authorizing the program provides for grants to those entities, and that the public agency or nonprofit private agency, institution, or organization will administer those funds and property;

(3) that the State will adopt and use proper methods of administering each program to which this part applies including—

(A) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law,

(B) providing technical assistance, where necessary, to those agencies, institutions, and organizations,

(C) encouraging the adoption by those agencies, institutions, and organizations for promising or innovative educational techniques,

(D) the dissemination throughout the State of information on the program requirements and successful practices, and

(E) the correction of deficiencies in program operations that are identified through monitoring or evaluation;

(4) that the State will evaluate the effectiveness of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Commissioner may prescribe by regulation, and that the State will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other Federal official;

(5) that the State will use such fiscal control and fund accounting procedures as will insure proper disbursement of and accounting for Federal funds paid to the State under each program;

(6) that the State will make reports to the Commissioner (including reports on the results of evaluations required under paragraph (4)) as may reasonably be necessary to enable the Commissioner to perform his duties under each program, and that the State will maintain such records, in accordance with the requirements of section 1232f of this title, and afford access to the records as the Commissioner may find necessary to carry out his duties;

(7) that the State will provide reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by each program, and other interested institutions, organizations, and individuals in the planning for and operation of each program, including the following:

(A) the State will consult with relevant advisory committees, local agencies, interested groups, and experienced professionals in the development of program plans required by statute;

(B) the State will publish each proposed plan, in a manner that will ensure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Commissioner or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least thirty days;

(C) the State will hold public hearings on the proposed plans if required by the Commissioner by regulation; and

(D) the State will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations.

(c) Continuation of effectiveness

Each general application submitted under this section shall remain in effect for the duration of any program subject to the application. The Commissioner shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in that application.

(Pub. L. 89-10, title V, § 501, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240.)

PRIOR PROVISIONS

Provisions similar to this section were contained in Pub. L. 89-10, title V, § 504, Apr. 11, 1965, 79 Stat. 50; Pub. L. 89-10, title V, §§ 525, 533, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 144, 147, which were classified to sections 864, 866d, and 867b of this title, respectively, prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

A prior section 501 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 47, was classified to section 861 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3084, 3150 of this title.

§ 3142. Single local educational agency application

(a) Submission

Each local educational agency which participates in a program subject to this chapter under which Federal funds are made available to that agency through a State agency or board shall submit to that agency or board a general application containing the assurances set forth in subsection (b) of this section. That application shall cover the participation by the local educational agency in all such programs.

(b) Required assurances

The general application submitted by a local educational agency under subsection (a) of this section shall set forth assurances—

(1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided to the local educational agency under each program and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

(3) that the local educational agency will use fiscal control and fund accounting procedures that will insure proper disbursement of, and accounting for Federal funds paid to that agency under each program;

(4) that the local educational agency will make reports to the State agency or board and to the Commissioner as may reasonably be necessary to enable the State agency or board and the Commissioner to perform their duties and that the local educational agency will maintain such records, including the records required under section 1232 of this title, and give access to those records, as the State agency or board or the Commissioner deem necessary to perform their duties;

(5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;

(6) that any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;

(7) that in the case of any project involving construction—

(A) the project is not inconsistent with overall State plans for the construction of school facilities,

(B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 794 of title 29 in order to insure that facilities constructed with the use of Federal funds are accessible to and usable by handicapped individuals,

(C) in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and inclusion of works of art (not representing more than 1 per centum of the cost of the project); and

(8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through those projects.

(c) Continuation of effectiveness

A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in that application.

(Pub. L. 89-10, title V, § 502, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2242.)

PRIOR PROVISIONS

Provisions similar to this section were contained in Pub. L. 89-10, title V, § 504, Apr. 11, 1965, 79 Stat. 50; Pub. L. 89-10, title V, §§ 525, 533, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 144, 147, which were classified to sections 864, 866d, and 867b of this title, respectively, prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

A prior section 502 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 48, was classified to section 862 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of

Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3143. Application approval

(a) Mandatory and discretionary requirements

(1) A State educational agency shall approve an application of a local educational agency or a State agency subject to this part if (A) such State educational agency is satisfied, after considering the factors specified in paragraph (2), that such applicant agency will use the funds received under the application in a manner which meets the requirements of this subchapter, the General Education Provisions Act [20 U.S.C. 1221 et seq.] and other applicable requirements and (B) such applicant agency is not out of compliance with a determination of the State educational agency or the Commissioner that it repay funds paid it under this subchapter which were misused, and is not out of compliance with a compliance agreement under section 3148(c) of this title.

(2) A State educational agency may approve an application under paragraph (1) of this subsection, only after it has considered, where pertinent, (A) the results of Federal and State audits, (B) the results of Federal and State monitoring reports, (C) administrative complaints made by parents or other individuals concerning the applicant agency's compliance with this subchapter, and (D) reports on evaluations conducted by the local educational agency of its programs.

(b) Payments subsequent to approval

A State educational agency may make payments from funds received under this part only for programs and projects which it has approved under subsection (a) of this section.

(c) Procedures applicable for disapproval

A State educational agency shall not finally disapprove in whole or in part any application for funds under this part without first affording the local educational agency or other applicant submitting the application reasonable notice and opportunity for a hearing in accordance with section 434 of the General Education Provisions Act [20 U.S.C. 1232c].

(Pub. L. 89-10, title V, § 503, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2243.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (a)(1), is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in Pub. L. 89-10, title V, § 504, Apr. 11, 1965, 79 Stat. 50; Pub. L. 89-10, title V, §§ 525, 533, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 144, 147, which were classified to sections 864, 866d, and 867b of this title, respectively, prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

A prior section 503 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 49, was classified to section 863 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3144. State rulemaking

Nothing in this part shall be deemed to prohibit a State educational agency from adopting rules, regulations, procedures, guidelines, criteria, or other requirements applicable to programs and projects, assisted under this part if they do not conflict with the provisions of this part or with regulations promulgated by the Commissioner implementing this subchapter or other applicable Federal law. The Commissioner shall encourage State educational agencies, in adopting such rules, regulations, procedures, guidelines, criteria, or other requirements to recognize the special and unique needs and circumstances of the State and of each local educational agency in the State.

(Pub. L. 89-10, title V, § 504, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2244.)

PRIOR PROVISIONS

A prior section 504 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 50, was classified to section 864 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3145. Technical assistance and dissemination of information

Each State educational agency shall carry out a comprehensive program to provide technical assistance to local educational agencies and State agencies with respect to the use of funds received under this part. Such a program shall include technical assistance for management procedures, for planning, development, implementation, and evaluation of programs, and for preparation of applications, as well as other forms of technical assistance needed by local educational agencies and State agencies. Each State educational agency shall also adopt effective procedures for disseminating to local educational agencies and State agencies (1) significant and relevant information derived from education research, (2) information about successful compensatory education projects, (3) information about other Federal and State funded programs which may provide needed health, social, and nutrition services to eligible participating children under this subchapter, and (4) such other information as will assist local educational agencies, and State agencies in planning, developing, implementing, and evaluating programs subject to this part.

(Pub. L. 89-10, title V, § 505, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2244.)

PRIOR PROVISIONS

A prior section 505 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 51, was classified to section 865 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

§ 3146. Monitoring

Each State educational agency shall adopt standards, consistent with minimum standards established by the Commissioner, for monitoring the effectiveness of programs and projects subject to this part. Such standards shall (1) describe the purpose and scope of monitoring; (2) specify the frequency of on-site visits; (3) describe the procedures for issuing and responding to monitoring reports, including but not limited to, the period of time in which the State educational agency must issue its report, the period of time in which the applicant agency must respond, and the appropriate followup by the State educational agency, (4) specify the methods for making monitoring reports available to parents, State and local auditors, and other persons, and (5) specify the methods for insuring that noncompliant practices are corrected.

(Pub. L. 89-10, title V, § 506, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2244.)

PRIOR PROVISIONS

A prior section 506 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 51, which provided for payments to States; installments; advances or reimbursement; and adjustments, was repealed by Pub. L. 91-230, title I, § 143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3147. Complaint resolution

Each State educational agency shall adopt written procedures for receiving and resolving complaints, or reviewing appeals from decisions of local educational agencies with respect to complaints, concerning violations of this subchapter, applicable provisions of the General Education Provisions Act [20 U.S.C. 1221 et seq.] or of programs subject to this part, and for conducting on-site investigations of complaints which the State educational agency deems necessary. Such procedure shall include—

(1) specific time limits for resolving the complaint or completing the review and, if necessary, the independent on-site investigation, which shall not exceed sixty days unless exceptional circumstances exist;

(2) an opportunity for the complainant or the complainant's representative, or both, and the local educational agency involved to present evidence, including the opportunity to question parties to the dispute and any of their witnesses;

(3) the right to appeal the final resolution of the State educational agency to the Commissioner within thirty days after receipt of the written decision; and

(4) dissemination of information concerning the procedures to interested parties, including all district and school advisory councils.

(Pub. L. 89-10, title V, § 507, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2245.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in text, is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

A prior section 507 of Pub. L. 89-10, Title V, Apr. 11, 1965, 79 Stat. 51, as amended, which was renumbered § 553 by Pub. L. 91-230, title I, § 143(a)(3), Apr. 13, 1970, 84 Stat. 142, related to interchange of personnel of Office of Education with States, and was repealed by Pub. L. 91-648, title IV, § 403, Jan. 5, 1971, 84 Stat. 1925.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3148. Withholding of payments

(a) Procedures applicable; authorization

Whenever a State educational agency, after reasonable notice and opportunity for a hearing to any local educational agency or State agency, before an impartial decisionmaker, finds that there has been a failure to comply substantially with any provision of the programs subject to this part the State educational agency shall notify such agency that further payments, in whole or in part, will not be made to it under applicable provisions of law until it is satisfied that there is no longer any such failure to comply. Until it is so satisfied, no further payments shall be made to such agency under applicable provisions of law, except as may be provided in a compliance agreement entered into under subsection (c) of this section. Pending the outcome of any proceeding under this subsection, the State educational agency may suspend payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

(b) Notification requirements

Upon submission to a local educational agency or a State agency of a notice that the State educational agency pursuant to subsection (a) of this section is withholding payment the State educational agency shall inform the district advisory council, if any, and shall take such additional action as may be necessary to bring the State action to the attention of the public.

(c) Suspension of initiation or continuation of withholding action pursuant to compliance agreement; definition; notice of agreement

A State educational agency may suspend the initiation or continuation of its withholding action under subsection (a) of this section while there is in effect a compliance agreement with the local educational agency or State agency under this subsection, except that if the local educational agency or State agency fails to comply with the terms agreed to, such agreement shall no longer be in effect and subsection (a) of this section shall be fully operative. In implementing such subsection, the State educational agency shall take into account any partial compliance by such agency under such agreement. For purposes of this subsection, the term "compliance agreement" means an agreement which—

(1) sets forth the terms and conditions to which the local educational agency or State agency has agreed in order to comply with the requirements of this subchapter or the General Education Provisions Act [20 U.S.C. 1221 et seq.] and regulations promulgated thereunder, and with the applicable rules, regulations, procedures, guidelines, criteria or other requirements adopted by the State educational agency;

(2) addresses all the matters that formed the basis for the initiation of the withholding action by the State educational agency; and

(3) may consist of a series of agreements that in the aggregate dispose of all such matters.

Within fifteen days after the execution of any compliance agreement, the State educational agency shall send a copy thereof to the district advisory council affected, and to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

(d) Appeal of final determinations

A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act [20 U.S.C. 1231b-2(a)], appeal a final determination of the State educational agency under subsection (a) of this section to the Commissioner.

(Pub. L. 89-10, title V, § 508, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2245.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (c)(1), is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 551 of Pub. L. 89-10, title V, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 150, which was classified to section 869 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

A prior section 508 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 54, which provided for administration of State plan, was repealed by Pub. L. 91-230, title I, § 143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142.t. 143,

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3143 of this title.

§ 3149. Audits and audit resolution

(a) Scope and frequency of audits

Each State shall make provision for audits of the expenditure of funds received under programs subject to this part, including funds received under this part, to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant. Such audits shall be made with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity.

(b) Procedures required for timely and appropriate resolution of audit findings and recommendations

Each State educational agency shall have in effect written procedures, meeting minimum standards established by the Commissioner, to assure timely and appropriate resolution of audit findings and recommendations arising out of audits provided for in subsection (a) of this section. Such procedures shall include a description of the audit resolution process, timetables for each step of the process, and an audit appeals process. Where, under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, such repayment may be made in either a single payment or in installments over a period not to exceed three years.

(c) Repayment of misspent or misapplied funds

A local educational agency or State agency shall repay from non-Federal sources or from Federal funds no accountability for which is required to the Federal Government the amount of funds under any program to which this part applies which have been finally determined through the audit resolution process to have been misspent or misapplied.

(d) Appeal of final determination

A local educational agency or State agency may, in accordance with section 1231b-2(a) of this title, appeal a final determination of the State educational agency under subsection (b) of this section to the Commissioner.

(e) Refusal to repay misspent or misapplied funds; initiation of collection action

If, following an affirmance by the Commissioner of a final determination of a State educational agency under subsection (b) of this section or failure by a local educational agency or State agency to seek timely review by the Commissioner, such local educational agency or

State agency refuses to repay from non-Federal sources or from Federal funds no accountability for which is required to the Federal Government funds which have been misspent or misapplied under any program to which this part applies, the State educational agency shall promptly notify the Commissioner and the Commissioner shall promptly initiate collection action.

(Pub. L. 89-10, title V, § 509, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2246.)

Prior Provisions

A prior section 509 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 54, which provided for judicial review, was repealed by Pub. L. 91-230, title I, § 143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3150. Payments

(a) Maximum and minimum amounts

The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this part, except that the total of such payments in any fiscal year shall not exceed—

(1) 1.75 per centum of the amount allocated to the State and its local educational agencies as determined for that year under the programs described in section 3141(a) of this title; or

(2) $550,000, or $87,500 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or the Northern Marianas,

whichever is the greater, but such payment shall not be less than the amount each State received for administration of programs under this chapter for fiscal year 1978.

(b) Authorization of appropriations; preconditions

(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983.

(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

(A) the amount appropriated under this subsection is sufficient to pay the full amount for which each State is eligible under subsection (a) of this section for that fiscal year, and

(B) the sums appropriated pursuant to this subsection are included in an act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(3) Whenever the requirements of paragraph (2) are not met, each State shall receive payments under section 2844 and under section 3084(a)(8) of this title, for the administration of the programs in accordance with subpart 2 of part C of subchapter I and subchapter IV of this chapter, and sections 1232d and 1232e of this title.

(c) Additional funding; authorization of appropriations

(1) The Commissioner is authorized to pay to each State in addition to the amount authorized under the preceding subsection an amount not to exceed 25 per centum of the amount authorized for that State under the preceding subsection in cases where—

(1) such funds are used solely for purposes of monitoring, audit resolution, enforcement, or other similar activities which are directly and exclusively related to the enforcement of the requirements of subchapters I and IV of this chapter and of this part,

(2) the State applies to receive such individual funds and, in the annual application submitted under section 2762 of this title specifically describes the intended uses of such funds, and

(3) such funds are used to supplement, and not supplant, funds from non-Federal sources for such enforcement purposes.

(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of paragraph (1) of this subsection for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983.

(Pub. L. 89-10, title V, § 510, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2247.)

Prior Provisions

A prior section 510 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 54, which related to the Advisory Council on State Departments of Education, was repealed by Pub. L. 91-230, title I, § 143(a)(4)(A), title IV, § 401(h)(3), Apr. 13, 1970, 84 Stat. 142, 174.

Provisions similar to this section were contained in prior section 501 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 47, which was classified to section 861 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 2801, 2844, 3084 of this title.

Part B—Strengthening State Educational Agency Management

§ 3161. Activities authorized

The amounts available to each State for the purposes of this part shall be used by the State educational agency of that State to strengthen the educational leadership resources of that agency and to assist that agency in identifying and meeting the critical educational needs of the State. Such activities may include—

(1) developing more equitable means of financing education in the State;

(2) providing resources to other branches of the State government to conduct analyses of educational issues facing the State;

(3) developing statewide programs to assess the educational progress of students in the State in both public and private schools, including testing programs and other methods of assessing student achievement in reading, writing, and mathematics;

(4) providing technical assistance to local educational agencies for improving planning, management of State and Federal programs, citizen involvement, and staff development;

(5) providing technical assistance to local educational agencies for improving their instructional programs, including programs that enable parents to assist in the instruction of their children at home;

(6) workshops, conferences, and other means of providing communication among educators and between educators and the public;

(7) dissemination of information concerning effective educational practices;

(8) coordinating public educational programs with those carried out in private nonprofit elementary and secondary schools in the State, and monitoring the requirements of Federal programs with respect to the participation therein of children enrolled in those schools;

(9) professional development of employees of the State educational agency; and

(10) developing curricular materials and programs.

(Pub. L. 89-10, title V, § 521, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2248.)

Prior Provisions

Provisions similar to this section were contained in prior section 503 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 49, which was classified to section 863 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

A prior section 521 of Pub. L. 89-10, title V, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 142, was classified to section 866 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

Section Referred to in Other Sections

This section is referred to in section 3084 of this title.

§ 3162. Program requirements

Each State which desires to participate in programs under this part shall submit to the Commissioner a State plan which sets forth in such detail as the Commissioner prescribes the purposes for which funds provided under this part will be used by the State educational agency. The plan shall also set forth—

(1) the means by which the State will make information and technical assistance available to private nonprofit school officials who desire to arrange for children in those schools to participate in Federal elementary and secondary education programs; and

(2) a comprehensive plan for the coordination of Federal and State funds for training activities for educational personnel in the State including preservice and inservice training, which plan shall be developed with the involvement of teachers, professional associations, institutions of higher education, and other interested individuals and organizations.

(Pub. L. 89-10, title V, § 522, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2248.)

Prior Provisions

A prior section 522 of Pub. L. 89-10, title V, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 143, was classified to section 866a of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3163. Authorization of appropriations

(a) Duration

There are authorized to be appropriated for the purposes of this part such sums as may be necessary for fiscal year 1980 and for each of the succeeding fiscal years ending prior to October 1, 1983.

(b) Prerequisites

No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

(1) the amount appropriated under this subsection is at least equal to (A) 15 percent of the amount appropriated for part C of subchapter IV of this chapter for that fiscal year, or (B) the amount made available to all States for fiscal year 1973 for title V as in effect in such year, whichever is greater, and

(2) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(c) Reservation of sums

Whenever the requirements of subsection (b) of this section are not met, each State may reserve sums under section 3084(a)(9) of this title.

(Pub. L. 89-10, title V, § 523, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2249, and amended Pub. L. 96-46, § 1(16), Aug. 6, 1979, 93 Stat. 339.)

References in Text

Title V as in effect in such year, referred to in subsec. (b)(1)(B), is title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 47, as in effect for fiscal year 1973, which was classified to subchapter III (§ 861 et seq.) of chapter 24 of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

Prior Provisions

Provisions similar to this section were contained in prior section 501 of Pub. L. 89-10, title V, Apr. 11, 1965, 79 Stat. 47, which was classified to section 861 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

A prior section 523 of Pub. L. 89-10, title V, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 143, was classified to section 866b of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-46 redesignated pars. (A) and (B) as (1) and (2), respectively, and in par. (1) as so redesignated, designated provision relating to 15 percent of the amount appropriated for part C of subchapter IV of this chapter for that fiscal year as cl. (A) and added cl. (B).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3084, 3164 of this title.

§ 3164. Allotments to States

(a) From the amount appropriated under this part to meet the requirement of section 3163(b)(1) of this title for any fiscal year, the Commissioner shall allot to each State an amount equal to the allotment of the State for strengthening activities in the fiscal year 1973 pursuant to title V as in effect in such year to be available to carry out this part.

(b) From the amounts appropriated in excess of the amount appropriated to meet the requirement of subsection (a) of this section, the Commissioner shall award grants to States on a discretionary basis to be available to carry out this part.

(Pub. L. 89-10, title V, § 524, as added Pub. L. 96-46, § 1(17), Aug. 6, 1979, 93 Stat. 339.)

REFERENCES IN TEXT

Title V as in effect in such year, referred to in subsec. (a), is title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 47, as in effect for fiscal year 1973, which was classified to subchapter III (§ 861 et seq.) of chapter 24 of this title prior to the complete revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 95-561.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART C—COUNCILS ON QUALITY IN EDUCATION

§ 3171. National and State Advisory Councils

(a) National Council on Quality in Education; establishment, membership, functions, etc.

(1) There is hereby established a National Council on Quality in Education (hereafter referred to as the "National Council") composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The membership of the National Council shall include persons who are familiar with the educational needs and goals of the Nation, persons with competence in assessing the progress of the education agencies, institutions, and organizations in meeting those needs and achieving those goals, persons familiar with the administration of State and local educational agencies and of institutions of higher education, and persons representative of the general public. Members shall be appointed without regard to political affiliation. Members shall be appointed for terms of three years, except that (A) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (B) appointments to fill the unexpired portion of any term shall be for such portion only.

(2) The National Council shall—

(A) review the administration of, general regulations for, and operation of the programs assisted under this subchapter at the Federal, State, and local levels, and other Federal education programs;

(B) advise the Commissioner and, when appropriate, the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of the educational agencies, institutions, and organizations of the Nation toward meeting those needs and achieving those goals;

(C) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

(D) review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to clause (E) of paragraph (3) of subsection (b) of this section;

(E) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of education programs including the programs authorized by this subchapter;

(F) consult with Federal, State, local, and other educational agencies, institutions, and organizations with respect to assessing education in the Nation and the improvement of the quality of education, including—

(i) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

(ii) determinations of priorities among unmet needs and national goals;

(iii) specific means of improving the quality and effectiveness of teaching, curricula, and educational media and of raising standards of scholarship and levels of achievement; and

(G) conduct national conferences on the assessment and improvement of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education; and

(H) conduct, and report on, comparative studies and evaluations of education systems in foreign countries.

(3) No member of the council shall evaluate any program or project if such member is associated with the program or project as a consultant, technical advisor, or in any other similar capacity.

(4) The National Council shall make an annual report, and such other reports as it deems appropriate on its findings, recommendations, and activities to the Congress and the President. The President is requested to transmit to the Congress, at least annually, such comments and recommendations as he may have with respect to such reports and its activities.

(5) In carrying out its responsibilities under this section, the National Council shall consult with the National Advisory Council on the Education of Disadvantaged Children, and such other advisory councils and committees as may have information and competence to assist the National Council. All Federal agencies are directed to cooperate with the National Council in assisting it in carrying out its functions.

(b) State advisory councils; establishment, membership, functions, etc.

(1) Any State receiving payments under this subchapter for any fiscal year may establish a State advisory council (hereinafter referred to as "State council") which if it meets the requirements and has the authority specified in this subsection may receive payments pursuant to subsection (c) of this section. The State council shall be appointed by the Governor or, in the case of States in which the members of the State educational agency are elected (including election by the State legislature), by such agency.

(2) The State council established pursuant to this subsection shall be broadly representative of the educational resources of the State and of the public. Representation on the State council shall include, but not be limited to persons representative of—

(A) public and nonprofit private elementary and secondary schools;

(B) institutions of higher education;

(C) areas of competence in planning and evaluating education programs, and the assessment of the effectiveness of, and the administration of, such programs at the State and local levels; and

(D) areas of competence dealing with children for whom special educational assistance is available under this chapter.

(3) The State council shall—

(A) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and the National Council at such times, in such form, and in such detail, as the Commissioner may prescribe;

(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, State and local educational programs in the State, including the development of criteria for approval of applications for assistance under this subchapter;

(C) advise State and local officials who have a responsibility for education in the State with respect to the planning, evaluating, administration, and assessment of education in the State;

(D) review and make recommendations to the State educational agency on the action to be taken with respect to applications for assistance under this subchapter by local educational agencies; and

(E) evaluate programs and projects assisted under this subchapter.

(4) Any such State shall certify the establishment and membership of its State council to the Commissioner.

(5) Such State council shall meet within thirty days after its certification has been accepted by the Commissioner and select from among its membership a chairman. The time, place, and manner of meeting shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given opportunity to express views concerning the operation of programs and projects assisted under this subchapter.

(6) Such State council shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this subchapter and to contract for such services as may be necessary to enable them to carry out their evaluation functions.

(c) Authorization of appropriations

(1)[1] There are authorized to be appropriated for each fiscal year such sums, not in excess of 2½ per centum of the amount otherwise appropriated for such year for the purposes of this subchapter, as may be necessary to carry out the provisions of this subsection.

(Pub. L. 89-10, title V, § 531, as added Pub. L. 95-561, title V, § 501, Nov. 1, 1978, 92 Stat. 2249.)

Prior Provisions

Provisions similar to this section were contained in prior section 541 of Pub. L. 89-10, title V, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970; 84 Stat. 148, which was classified to section 868 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

A prior section 531 of Pub. L. 89-10, title V, as added Pub. L. 91-230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84

---

[1] So in original. No par. 2 has been enacted.

Stat. 145, was classified to section 867 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER VI—EMERGENCY SCHOOL AID

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1234a, 3261, 3381 of this title.

§ 3191. Short title

This subchapter may be cited as the "Emergency School Aid Act".

(Pub. L. 89-10, title VI, § 601, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2252.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 701 of Pub. L. 93-318, title VII, June 23, 1972, 86 Stat. 354, which was set out as a note under section 1601 of this title and was repealed effective Sept. 30, 1979.

A prior section 601 of Pub. L. 89-10, title VI, formerly title VI, § 601(a), as added Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1204, was classified to section 871 of this title prior to the repeal of that section by Pub. L. 91-230.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3293 of this title.

§ 3192. Findings and purpose

(a) The Congress finds that the process of eliminating or preventing minority group isolation and improving the quality of education for all children often involves the expenditure of additional funds to which local educational agencies do not have access.

(b) The purpose of this subchapter is to provide financial assistance—

(1) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools; and

(2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students.

(Pub. L. 89-10, title VI, § 602, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2252.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 702 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 354, which was classified to section 1601 of this title and was repealed effective Sept. 30, 1979.

A prior section 602 of Pub. L. 89-10, title VI, formerly title VI, § 601(b), as added Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1204, was classified to section 872 of this title prior to the repeal of that section by Pub. L. 91-230.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3194, 3195, 3198, 3200, 3202 of this title.

§ 3193. Policy with respect to the application of certain provisions of Federal law

(a) It is the policy of the United States that guidelines and criteria established pursuant to this subchapter shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

(b) It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] and section 2000d-5 of title 42 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

(Pub. L. 89-10, title VI, § 603, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2252.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 703 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 354, which was classified to section 1602 of this title and was repealed effective Sept. 30, 1979.

A prior section 603 of Pub. L. 89-10, title VI, as added Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1205, was classified to section 873 of this title prior to the repeal of that section by Pub. L. 91-230.

§ 3194. Authorization

(a) Program implementation; delegation of functions

The Assistant Secretary shall, in accordance with the provisions of this subchapter, carry out a program designed to achieve the purpose set forth in section 3192(b) of this title. The Assistant Secretary shall delegate the responsibilities for the operation for such program to the Commissioner.

(b) Authorization of appropriations

(1) There are authorized to be appropriated for the purposes of this subchapter, to be apportioned among the States in accordance with section 3195 of this title, $155,000,000 for fiscal year 1980 and for each of the three succeeding fiscal years.

(2) There are further authorized to be appropriated for the purpose of this subchapter $245,000,000 for fiscal year 1980 and for each of the three succeeding fiscal years for special programs and projects under section 3198 (except subsection (b) thereof) and under section 3201 of this title, and for evaluations under section 3203 of this title. From the amount appropriated under this subsection for any fiscal year, the Assistant Secretary shall reserve $20,000,000 or 25 per centum of such sums appropriated under this subchapter, whichever is greater, for the purpose of carrying out programs and projects described in section 3198(a)(1) through (3) of this title and shall reserve 7 per centum for the projects described in section 3201 of this title.

(3) There are further authorized to be appropriated for the purpose of this subchapter $15,000,000 for the fiscal year 1980 and for each of the three succeeding fiscal years for programs and projects designed to support the development or implementation of plans under section 3198(b) of this title.

(c) Additional authorization of appropriations; funding requirements

(1) There are further authorized to be appropriated for the purpose of this subchapter $7,250,000 and such additional sums as may be necessary for fiscal year 1980 and for each of the three succeeding fiscal years for providing compensatory services to students who had previously received such services funded in whole or in part under subchapter I of this chapter, but who are no longer receiving such services as a result of attendance area or enrollment changes under a plan implemented or ordered after August 21, 1974, if the plan meets the requirements of section 3196(a)(1)(A), (B), (C), or (D) of this title for eligibility for assistance under this subchapter.

(2) Funds made available under paragraph (1)—

(A) shall not be used in any manner which would result in the isolation of the students described in such paragraph from other students in the school to which the students so described have been assigned by such plan; and

(B) shall be used to establish compensatory education programs, not less than 30 per centum of the enrollment in which is such other students, except that—

(i) if such school receives funds under provisions of this subchapter other than this subsection, such funds shall be used to provide such services to such other students; or

(ii) if such school does not receive such funds, funds provided under this subsection may be used for such other students, not exceeding 30 per centum of the enrollment in such program.

(Pub. L. 89-10, title VI, § 604, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2252.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 704 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 355, which was classified to section 1603 of this title and was repealed effective Sept. 30, 1979.

A prior section 604 of Pub. L. 89-10, title VI, as added Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1205, was classified to section 874 of this title prior to the repeal of that section by Pub. L. 91-230.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3195, 3197, 3198, 3201, 3202, 3203, 3204 of this title.

§ 3195. Apportionment among States; reapportionment requirements

(a) From the sums appropriated pursuant to section 3194(b)(1) of this title for any fiscal year, the Assistant Secretary shall apportion to each State for grants and contracts within the State $75,000 plus an amount which bears the same ratio to such sums as the number of minority group children aged five through seventeen, inclusive, in that State bears to the number of such children in all States, except that the amount apportioned to any State shall not be less than $100,000. The number of such children in each State and in all of the States shall be determined by the Assistant Secretary on the basis of the most recently available satisfactory data.

(b)(1) The amount by which any apportionment to a State for a fiscal year under subsection (a) of this section exceeds the amount which the Assistant Secretary determines will be required for that fiscal year for programs and projects within that State shall be available either—

(A) for reapportionment to other States for which the amount so apportioned is insufficient for approvable programs or projects for that fiscal year, or

(B) for special programs and projects under section 3198(a) of this title,

whichever the Assistant Secretary determines will best achieve the purposes of this subchapter. The Assistant Secretary shall distribute any amounts reapportioned among the States pursuant to clause (A) in proportion to the need of eligible applicants in each such State for approvable programs or projects.

(2) The Assistant Secretary shall not fix a date for reapportionment, pursuant to this subsection, of any portion of any apportionment to a State for a fiscal year which date is earlier than one hundred and twenty days prior to the end of such fiscal year.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any apportionment to a State for a fiscal year shall

be available for reapportionment pursuant to this subsection unless the Assistant Secretary determines that the application for assistance under this subchapter which have been filed by eligible applicants in that State for which a portion of such apportionment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this subchapter, as set forth in sections 3196, 3197, and 3200 of this title, or which set forth programs or projects of such insufficient promise for achieving the purposes of this subchapter stated in section 3192(b) of this title that their approval is not warranted.

(Pub. L. 89-10, title VI, § 605, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2253.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 705 of Pub. L. 92-318, title VII, June 23, 1974, 86 Stat. 355, which was classified to section 1604 of this title and was repealed effective Sept. 30, 1979.

A prior section 605 of Pub. L. 89-10, title VI, as added Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1207, was classified to section 875 of this title prior to the repeal of that section by Pub. L. 91-230.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3194, 3198, 3204, 3207 of this title.

§ 3196. Eligibility for assistance

(a) Granting or contracting authority

(1) The Assistant Secretary is authorized to make a grant to, or a contract with, a local educational agency—

(A) which is implementing a plan—

(i) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools, and which may, in addition, require educational activities in minority group isolated schools not affected by the reassignment of children or faculty under the plan in order to remedy the effects of illegal segregation; or

(ii) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] for the desegregation of minority group segregated children or faculty in such schools; or

(B) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this subchapter, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency; or

(C) which has adopted and is implementing, or will, if assistance is made available to it under this chapter, adopt and implement a plan—

(i) to eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency,

(ii) to reduce the total number of minority group children who are in minority group isolated schools of such agency, or

(iii) to prevent minority group isolation reasonably likely to occur (in the absence of assistance under this subchapter) in any school in such district in which school at least 20 per centum, but not more than 50 per centum, of the enrollment consists of such children, or

(D) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this subchapter, adopt and implement a plan to enroll and educate in the schools of such agency children who should not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing minority group isolation in one or more of the school districts; or

(E) which is developing a plan of desegregation—

(i) issued by a court of the United States or a court of any State, or any other State agency or official of competent jurisdiction, or

(ii) undertaken by such agency voluntarily, and

which plan will require the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise will require the elimination or reduction of minority group isolation in such schools, or which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] for the desegregation of minority group segregated children or faculty in such schools, and the period for such planning does not exceed two years.

Grants under clause (E) shall be from funds appropriated to carry out the purposes of section 3198 of this title, and not more than one grant for the development of a plan under clause (E) of this paragraph may be made to any local educational agency. Receipt of a grant or contract under clause (E) of this paragraph shall not be used as an absolute defense in any court of the United States, or a court of any State, or before any other State agency or official of competent jurisdiction.

(2)(A) The Assistant Secretary is authorized, in accordance with special eligibility criteria established by regulation for the purposes of this paragraph, to make grants to, and contracts with, local educational agencies for the purposes of section 3199(a)(1) of this title.

(B) A local educational agency shall be eligible for assistance under this paragraph only if—

(i) such agency is located within, or adjacent to, a Standard Metropolitan Statistical Area;

(ii) the schools of such agency are not attended by minority group children in a significant number or proportion; and

(iii) such local educational agency has made joint arrangements with a local educational agency, located within that Standard Metropolitan Statistical Area, and the schools of which are attended by minority group children in a significant proportion, for the establishment or maintenance of one or more integrated schools as provided in section 3207(3) of this title.

(b) Maximum amount of grant or contract

No local educational agency making application under this section shall be eligible to receive a grant or contract in an amount in excess of the amount determined by the Assistant Secretary, in accordance with regulations setting forth criteria established for such purpose, to be the additional cost to the applicant arising out of activities authorized under this subchapter, above that of the activities normally carried out by the local educational agency.

(c) Activities after June 23, 1972 as determining eligibility; exceptions; applicability

(1) Except as provided in paragraph (2), no educational agency shall be eligible for assistance under this subchapter if it has, after June 23, 1972—

(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any transferee which it knew or reasonably should have known to be a nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice, or permit to be practiced, discrimination on the basis of race, color, or national origin in the operation of any school activity;

(B) had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

(C) in conjunction with desegregation or the conduct of an activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of minority group from nonminority group children for a substantial portion of the school day, except that this clause does not prohibit the use of bona fide ability grouping by a local educational agency as a standard pedagogical practice; or

(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of minority group children in such activities, which discriminates among children on the basis of race, color, or national origin;

except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

(2) Whenever a local educational agency applies for assistance under clause (E) of subsection (a)(1) of this section, the provisions of clauses (C) and (D) of paragraph (1) of this subsection shall not apply if the local educational agency provides assurances in the application for assistance that the development of the plan for which assistance is sought will address the conditions described in such clauses (C) and (D).

(3)(A) Applications for waivers under paragraph (1) may be approved only by the Secretary. The Secretary's functions under this paragraph shall, notwithstanding any other provision of law, not be delegated.

(B) Application for waiver shall be granted by the Secretary upon determination that any practice, policy, procedure or other activity resulting in ineligibility has ceased to exist, and that the applicant has given satisfactory assurance that the activities prohibited in this subsection will not reoccur.

(4) No application for assistance under this subchapter shall be approved prior to a determination by the Secretary that the applicant is not ineligible by reason of this subsection.

(5) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

(6) All determinations and waivers pursuant to this subsection shall be in writing.

(7) The Assistant Secretary shall prepare and include in the annual report required by section 1231a(a)(4) of this title a list of all the waivers granted under this subsection for the preceding fiscal year.

(Pub. L. 89-10, title VI, § 606, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2254.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

Prior Provisions

Provisions similar to this section were contained in section 706 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 356, which was classified to section 1605 of this title and was repealed effective Sept. 30, 1979.

A prior section 606 of Pub. L. 89-10, title VI, as added Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1207, was classified to section 876 of this title prior to the repeal of that section by Pub. L. 91-230.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 3194, 3195, 3197, 3198, 3199, 3200, 3204, 3207, 3261 of this title.

§ 3197. Authorized activities; preferential hiring of teacher aides

(a) The Assistant Secretary shall make sums appropriated under section 3194(a) of this title for any fiscal year available for programs and projects designed to meet educational needs that arise from the development of or the implementation of a plan described in section 3196(a) of this title. Those programs and projects may include, but are not limited to—

(1) the training of school staff and local educational agency staff in the handling of problems incident to the implementation of a qualifying plan;

(2) the provision of additional staff members (including teacher aides) to assist in meeting educational needs that arise from the implementation of the plan;

(3) the development or acquisition of new curricula, methods, practices, techniques, or materials to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups;

(4) innovative educational activities, including extracurricular activities, which involve the joint participation of minority group children and other children;

(5) community relations activities, including public information efforts, in support of the implementation of a qualifying plan;

(6) planning, evaluation, dissemination, and other administrative activities directly related and necessary to other activities in the program or project;

(7) repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities, where necessary to carry out other activities in the program or project;

(8) the provision of compensatory services to children who have received such services under subchapter I of this chapter but who are no longer eligible to receive those services as a result of attendance area changes under a qualifying plan;

(9) activities to prevent or eliminate recurring or continuing problems resulting from the implementation of a qualifying plan;

(10) planning to implement or carry out a plan of desegregation issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools or which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] for the desegregation of minority group segregated children or faculty in such schools; and

(11) in the case of an applicant implementing a court-ordered desegregation plan under section 3196(a)(1)(A)(i) of this title, the conduct of educational activities in one or more minority group isolated schools which are not affected by the reassignment of children or faculty under the plan, where the activities have been required by the court to remedy the effects of illegal segregation.

(b) In recruiting and hiring teacher aides to assist in carrying out a program or projects under this section the local educational agency shall give preference to parents of children affected by the implementation of a qualifying plan.

(Pub. L. 89-10, title VI, § 607, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2257.)

References in Text

The Civil Rights Act of 1964, referred to in subsec. (a)(10), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

Prior Provisions

Provisions similar to this section were contained in section 707 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 359, which was classified to section 1606 of this title and was repealed effective Sept. 30, 1979.

A prior section 607 of Pub. L. 89-10, title VI, as added Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1207, was classified to section 877 of this title prior to the repeal of that section by Pub. L. 91-230.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in section 3195 of this title.

§ 3198. Special programs and projects

(a) Granting and contracting authority

From the amount appropriated for any fiscal year under section 3194(b) of this title, the Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public and private nonprofit agencies and organizations (or a combination of such agencies and organizations) for the purpose of carrying out activities which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this subchapter, including, but not limited to—

(1) the planning for, design of, and conduct of programs in magnet schools;

(2) the pairing of schools and programs with institutions of higher education and with businesses;

(3) the development of plans for neutral site schools;

(4) activities designed to meet the needs of minority group children of limited English language proficiency enrolled in the schools of a local educational agency eligible for assistance under section 3196 of this title; and

(5) the development and production of integrated children's television and radio programs of cognitive and affective educational value, as described in section 3201 of this title.

(b) Additional granting or contracting authority

From the amount appropriated for any fiscal year under section 3194(b)(3) of this title, the Assistant Secretary, in cases in which it would effectively carry out the purpose of this subchapter stated in section 3192(b) of this title, may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) in any State to carry out programs or projects designed to support the development or implementation of a plan described in section 3196(a) of this title.

(c) Additional granting authority; application requirements

(1) From the amount available for the purposes of this section for each fiscal year, the Assistant Secretary shall carry out a program of making grants to State educational agencies, or other State agencies involved in or responsible for the desegregation of public elementary and secondary schools, to pay a portion of the cost of State activities related to—

(A) planning (i) for the implementation of voluntary plans to eliminate or reduce minority group isolation in those schools, and (ii) to assess future needs, and to develop further strategies to meet those needs;

(B) providing technical assistance to encourage local educational agencies or groups of those agencies to develop or implement voluntary plans to eliminate or reduce minority group isolation in those schools; and

(C) providing training for educational personnel involved in developing or carrying out a voluntary plan to eliminate or reduce minority group isolation in those schools.

(2) The amount of assistance made available to a State under this subsection for any fiscal year shall be twice the amount of State funds expended in the preceding fiscal year for the activities listed in paragraph (1). The amount provided to a State under this section for any fiscal year shall not exceed—

(A) 10 per centum of the amount apportioned to the State for that fiscal year under section 3195 of this title, or

(B) $500,000,

whichever is greater.

(3) No grant may be made to a State under this subsection unless the application for that grant has been developed in consultation with teachers, educators, parents (including parents of minority group children), and representatives of the general public (including representatives of minority groups), of whom the proportion of minority group individuals shall be approximately the same as the proportion of minority group children enrolled in the elementary and secondary schools in the State.

(Pub. L. 89-10, title VI, § 608, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2258.)

Prior Provisions

Provisions similar to this section were contained in section 708 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 360, which was classified to section 1607 of this title and was repealed effective Sept. 30, 1979.

A prior section 608 of Pub. L. 89-10, title VI, as added Pub. L. 90-247, title I, § 151(5), Jan. 2, 1968, 81 Stat. 801, was classified to section 877a of this title prior to the complete revision of that Act by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 3194, 3195, 3196, 3199, 3200, 3202, 3207, 3223 of this title.

§ 3199. Metropolitan area projects

(a) Sums available to the Assistant Secretary under section 3198 of this title for metropolitan area projects shall be available for the following purposes:

(1) A program of grants to, and contracts with local educational agencies which are eligible under section 3196(a)(2) of this title in order to assist them in establishing and maintaining integrated schools as defined in section 3207(3) of this title.

(2) A program of grants to groups of local educational agencies located in a Standard Metropolitan Statistical Area for the joint development of a plan to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in the Standard Metropolitan Statistical Area, which shall, as a minimum, provide that by a date certain, but in no event later than July 1, 1983, the percentage of minority group children enrolled in

each school in the Standard Metropolitan Statistical Area shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools in the Standard Metropolitan Statistical Area. No grant may be made under this paragraph unless—

(A) two-thirds or more of the local educational agencies in the Standard Metropolitan Statistical Area have approved the application, and

(B) the number of students in the schools of the local educational agencies which have approved the application constitutes two-thirds or more of the number of students in the schools of all the local educational agencies in the Standard Metropolitan Statistical Area.

(b) In making grants and contracts under this section, the Assistant Secretary shall insure that at least one grant shall be for the purposes of paragraph (2) of subsection (a) of this section.

(Pub. L. 89-10, title VI, § 609, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2259.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 709 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 361, which was classified to section 1608 of this title and was repealed effective Sept. 30, 1979.

A prior section 609 of Pub. L. 89-10, title VI, as added Pub. L. 90-247, title I, § 151(5), Jan. 2, 1968, 81 Stat. 801, was classified to section 877b of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3196, 3207 of this title.

§ 3200. Applications

(a) Submission, form, and contents; availability to public; determinations respecting approval

Any local educational agency desiring to receive assistance under this subchapter shall submit to the Assistant Secretary, at such time, in such form, and containing only such information as the Secretary and the Assistant Secretary deem necessary to carry out their functions under this subchapter, an application describing the activities to be carried out under the application during the period, not to exceed five academic years, for which assistance is being sought. That application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary. The Assistant Secretary may approve an application only upon a determination that such application—

(1) has been developed—

(A) in open consultation with parents, teachers and, where applicable, secondary school students, including at least one public hearing at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereupon, and

(B) with the participation of a committee composed of parents of children enrolled in the applicant's schools, teachers and, where applicable, secondary school students, of which at least half the members shall be such parents and at least half shall be persons from minority groups;

(2) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (1)(B);

(3) sets forth such policies and procedures, and contains such information, as will insure that funds paid to the applicant under the application will be used solely to pay the additional cost to the applicant in carrying out the program described in the application;

(4) contains such assurances and other information as will insure that the program for which assistance is sought will be administered by the applicant, and that any funds received by the applicant, and any property derived therefrom, will remain under the administration and control of the applicant;

(5) provides that the plan with respect to which such agency is seeking assistance (as specified in section 3196(a)(1)(A) of this title) does not involve freedom of choice as a means of desegregation, unless the Assistant Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

(6) provides assurances that such agency will carry out, and comply with, all provisions, terms, and conditions of any plan, as described in section 3196 of this title, upon which a determination of its eligibility for assistance under this subchapter is based;

(7) sets forth such policies and procedures, and contains such information, as will insure that funds made available to the applicant (A) under this subchapter will be so used (i) as to supplement the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purposes of the program for which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in such program, and (ii) in no case, as to supplant such funds from non-Federal sources, and (B) under any other law of the United States will, in accordance with standards established by regulation, be used in coordination with such programs to the extent consistent with such other law, except that nothing in this clause shall prohibit the use of funds under this subchapter for otherwise authorized activities re-

quired under a court-ordered plan described in section 3196(a)(1)(A)(i) of this title;

(8) provides that (A) to the extent consistent with the number of minority group children in the area to be served who are enrolled in private nonprofit elementary and secondary schools which are operated in a manner free from discrimination on the basis of race, color, or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools, whose participation would assist in achieving the purpose of this subchapter stated in section 3192(b) of this title, provides assurance that such agency (after consultation with the appropriate private school officials) has made provision for their participation on an equitable basis, and (B) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this subchapter stated in section 3192(b) of this title, such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

(9) provides that the applicant has not reduced its fiscal effort per student or the aggregate expenditure for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this subchapter to less than that of the second preceding fiscal year;

(10) provides that the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Assistant Secretary;

(11) sets forth effective procedures, including provisions for objective measurement of change in educational achievement and other change to be effected by programs conducted under this subchapter, for the continuing evaluation of programs under this subchapter, including their effectiveness in achieving clearly stated program goals, their impact on related programs and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

(12) provides (A) that the applicant will make periodic reports at such time, in such form, and containing such information as the Assistant Secretary may prescribe, including, in the case of reports relating to performance, that the reports be consistent with specific criteria related to the program objectives and (B) that the applicant will keep such records and afford such access thereto as—

(i) will be necessary to insure the correctness of such reports and to verify them,

(ii) will be necessary to insure the public adequate access to such reports and other written materials; and

(13) provides that the applicant, in developing the program or project for which it seeks assistance, has considered the need for compensatory services for children who received those services under subchapter I of this chapter, but who are no longer eligible to receive those services as a result of attendance area changes under a qualifying plan.

(b) Notification requirements

Except in the case of applications for assistance under section 3198(a) of this title, the Secretary shall determine whether the applicant is eligible under section 3196(c) of this title, and notify the applicant in writing of any determination of ineligibility under that subsection, including in detail the relevant information on which the determination of ineligibility is based, not later than March 1 of the year in which the academic year or other period for which the assistance is sought begins. Not later than June 30 of that year, the Assistant Secretary shall notify the applicant of the approval or disapproval of the application and the amount of its award, if any.

(c) Written comments of committee to accompany application

No application under this section may be approved which is not accompanied by the written comments of a committee established pursuant to clause (2)(B)[1] of subsection (a) of this section. The Assistant Secretary shall not approve an application without first affording the committee an opportunity for an informal hearing if the committee requests such a hearing.

(d) Criteria for approval

In approving applications submitted under this subchapter (except for those submitted under sections 3198(b) and 3203 of this title) the Assistant Secretary shall apply the following criteria:

(1) the need for assistance based on the expense or difficulty of effectively carrying out a plan described in section 3196(a) of this title and the program or projects for which assistance is sought;

(2) the degree to which implementation of the plan described in section 3196(a) of this title has effected or will effect a decrease in minority group isolation in minority group isolated schools;

(3) the recentness of the implementation of the plan described in section 3196(a) of this title;

(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this subchapter; and

(5) the degree to which the plan described in section 3196 of this title involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(e) Longevity; payments pursuant to prior approved applications

(1) An application of a local educational agency for assistance under this subchapter

---

[1] So in original. Probably should refer to clause (1)(B).

may cover a period of from one to five years. A new application shall be required for any assistance under this subchapter for years subsequent to that period. The Assistant Secretary shall base the decision as to the length of time for which an application will be approved on—

(A) the severity of the problems addressed by the program or project for which assistance is being sought;

(B) the nature of the activities proposed in the application;

(C) the likely duration of the problems addressed by the application; and

(D) such other criteria, established by the Assistant Secretary as will assure the most effective use of this subchapter.

(2) If the Assistant Secretary approves an application of a local educational agency under this subchapter for a period covering more than one fiscal year, no subsequent application shall be required from that agency in any fiscal year during that period unless the agency proposes to carry out, in any such fiscal year, activities not included in the approved application. However, payments to any such agency for any fiscal year subsequent to the first fiscal year for which the application has been approved shall be made only if—

(A) sufficient appropriations are available for making payments in each such subsequent fiscal year; but such payments to applicants which are approved for a period of more than one year shall be made prior to any approval of funding requests from other applicants unless the Assistant Secretary finds that the urgency of needs elsewhere requires a reduction of the level of support for the applicants first approved;

(B) the Assistant Secretary determines that the agency is not ineligible for assistance under section 3196(d)[1] of this title in each subsequent fiscal year; and

(C) the agency demonstrates, by such means as the Assistant Secretary may prescribe, that satisfactory progress is being made toward achieving the objectives of the program or projects for which assistance has been made available under this subchapter.

(f) Voluntariness of adoption of desegregation plan as affecting consideration of application; notice of reasons for disapproval; opportunity to modify application

(1) The Assistant Secretary shall not give less favorable consideration to the application of a State or local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this subchapter (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

(2) The Assistant Secretary shall not finally disapprove in whole or in part any application for funds submitted by a State or local educational agency without first notifying the agency of the specific reasons for his disapproval and without affording the agency an appropriate opportunity to modify its application.

(g) Filing dates

The Assistant Secretary may, from time to time, set dates by which applications shall be filed.

(h) Application for joint program or project

In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this subchapter, at least one such agency shall be a local educational agency described in section 3196(a) of this title and any one or more of such agencies joining in such application may be authorized to administer such program or project.

(i) Prohibition of reduction in amount of State aid

No State shall reduce the amount of State aid with respect to the provision of free public education in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this subchapter.

(Pub. L. 89-10, title VI, § 610, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2260, and amended Pub. L. 96-46, § 1(18), Aug. 6, 1979, 93 Stat. 339.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 710 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 362, which was classified to section 1609 of this title and was repealed effective Sept. 30, 1979.

A prior section 610 of Pub. L. 89-10, title VI, as added Pub. L. 90-247, title I, § 151(5), Jan. 2, 1968, 81 Stat. 803, was classified to section 877c of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

AMENDMENTS

1979—Subsec. (f). Pub. L. 96-46 designated existing provision as par. (1) and added par. (2).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3195, 3202, 3203 of this title.

§ 3201. Educational television and radio

(a) Granting or contracting authority; availability for transmission; criteria for approval of applications

(1) The Assistant Secretary shall carry out a program of making grants to, or contracts with, public or private nonprofit agencies, institutions, or organizations with the capability of providing expertise in the development of high quality television and radio programing, in sufficient number to assure diversity, to pay the cost of development and production of integrat-

---

[1] So in original. Probably should refer to section 3196(c).

ed children's television and radio programs of cognitive and affective educational value.

(2) Television and radio programs developed in whole or in part with assistance provided under this subchapter shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship.

(3) The Assistant Secretary may approve an application under this section only if he determines that the applicant—

(A) will employ members of minority groups in responsible positions in development, production, and administrative staffs;

(B) will assure the development of productions having a substantial artistic or educational significance;

(C) will use modern television and radio techniques of research and production; and

(D) has adopted effective procedures for evaluating educational and other changes achieved by children viewing the program.

(b) Availability of funds

Grants and contracts pursuant to subsection (a) of this section may be made from funds available to carry out section 3194(b)(2) of this title.

(c) Maximum amounts available for radio programing

Not to exceed 10 per centum of the amounts available for this section shall be used for grants and contracts for development and production of radio programing.

(Pub. L. 89-10, title VI, § 611, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2264.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 711 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 366, which was classified to section 1610 of this title and was repealed effective Sept. 30, 1979.

A prior section 611 of Pub. L. 89-10, title VI, formerly § 608, as added Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1207, was classified to section 878 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3194, 3198, 3204 of this title.

§ 3202. Payments

(a) Reservation for approved application of amounts from applicable apportionment or reapportionment

Upon his approval of an application for assistance under this subchapter, the Assistant Secretary shall reserve from the applicable apportionment (including any applicable reapportionment) available therefor the amount fixed for such application.

(b) Manner of payments

The Assistant Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine. Payments under this subchapter for a fiscal year shall remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year.

(c) Services for children and staff enrolled or employed in private nonprofit elementary and secondary schools; procedures applicable; amounts available

(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (8) of section 3200(a) of this title, the Assistant Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this subchapter stated in section 3192(b) of this title. The services to be provided through arrangements made by the Assistant Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Assistant Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 3198(a) of this title, from the sums available to the Assistant Secretary under section 3194(b) of this title for the purpose of that subsection.

(2) In determining the amount to be paid pursuant to paragraph (1), the Assistant Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this subchapter by such local educational agency.

(3) If the Assistant Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (8) of section 3200(a) of this title, he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Assistant Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from

such agency any funds paid to it under such grant.

(d) Notification requirements

After making a grant or contract under this subchapter, the Assistant Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

(Pub. L. 89-10, title VI, § 612, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2264.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 712 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 366, which was classified to section 1611 of this title and was repealed effective Sept. 30, 1979.

A prior section 612 of Pub. L. 89-10, title VI, formerly § 609, as added Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1208, was classified to section 879 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3203. Evaluations

From the amount appropriated under section 3194(b) of this title for any fiscal year, the Assistant Secretary is authorized to reserve for the purpose of this section not to exceed 1 per centum of the amount appropriated under this subchapter for that fiscal year. From such reservation, the Assistant Secretary is authorized to make grants to, and contracts with, State educational agencies, institutions of higher education and private organizations, institutions, and agencies, including committees established pursuant to section 3200(a)(1) of this title for the purpose of evaluating specific programs and projects assisted under this subchapter.

(Pub. L. 89-10, title VI, § 613, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2265.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 713 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 367, which was classified to section 1612 of this title and was repealed effective Sept. 30, 1979.

A prior section 613 of Pub. L. 89-10, title VI, formerly § 610, as added Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1208, was classified to section 880 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3194, 3200 of this title.

§ 3204. Joint funding

Pursuant to regulations prescribed by the President, where funds are advanced under this subchapter, and by one or more other Federal agencies for any project or activity, funded in whole or in part under this subchapter, any one of such Federal agencies may be designated to act for all in administering the funds advanced. In such cases any such agency may waive any technical grant or contract requirement (as defined by regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. Nothing in this section shall be construed to authorize (1) the use of any funds appropriated under this subchapter for any purpose not authorized herein, (2) a variance of any reservation or apportionment under section 3194 or 3195 of this title, or (3) waiver of any requirement set forth in sections 3196 through 3201 of this title.

(Pub. L. 89-10, title VI, § 614, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2266.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 715 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 368, which was classified to section 1614 of this title and was repealed effective Sept. 30, 1979.

A prior section 614 of Pub. L. 89-10, title VI, formerly § 602, as added Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1204, was classified to section 880a of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

§ 3205. Attorney fees

Upon the entry of a final order by a court of the United States against a local educational agency, a State (or any agency thereof), or the United States (or any agency thereof), for failure to comply with any provision of this subchapter or for discrimination on the basis of race, color, or national origin in violation of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], or the fourteenth amendment to the Constitution of the United States as they pertain to elementary and secondary education, the court, in its discretion, upon a finding that the proceedings were necessary to bring about compliance, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(Pub. L. 89-10, title VI, § 615, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2266.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 718 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 369, which was classified to section 1617 of this title and was repealed effective Sept. 30, 1979.

§ 3206. Neighborhood schools

Nothing in this subchapter shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis to adopt any other method of student assignment.

(Pub. L. 89-10, title VI, § 616, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2266.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 719 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 369, which was classified to section 1618 of this title and was repealed effective Sept. 30, 1979.

§ 3207. Definitions

Except as otherwise specified, the following definitions shall apply to the terms used in this subchapter:

(1) The term "equipment" includes machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of educational services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

(2) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree; or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Assistant Secretary for the purpose of this paragraph.

(3) For the purpose of section 3196(a)(2) and section 3199(a)(1) of this title, the term "integrated school" means a school with an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, in which the proportion of minority group children is at least 50 per centum of the proportion of minority group children enrolled in all schools of the local educational agencies within the Standard Metropolitan Statistical Area, and which has a faculty and administrative staff with a substantial representation of minority group persons.

(4) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a federally recognized Indian reservation, or such combination of school districts, or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school and where responsibility for the control and direction of the activities in such schools which are to be assisted under this subchapter is vested in an agency subordinate to such a board or other authority, the Assistant Secretary may consider such subordinate agency as a local educational agency for the purposes of this subchapter.

(5) The term "magnet school" means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

(6) The term "minority group" refers to (A) persons who are American Indians and Alaskan Natives; Asians and Pacific Islanders; blacks, not of Hispanic origin; Hispanics; Franco-Americans; and Portuguese; and (B) (except for purposes of section 3195 of this title), as determined by the Assistant Secretary, persons who are from environments in which the dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity.

(7) The terms "minority group isolated school" and "minority group isolation" in reference to a school mean a school and condition, respectively, in which minority group children constitute more than 50 percentum of the enrollment of a school.

(8) The term "neutral site school" means a school that is located so as to be accessible to substantial numbers of students of different racial backgrounds.

(9) The term "Standard Metropolitan Statistical Area" means the area in and around a city of fifty thousand inhabitants or more as defined by the Office of Management and Budget.

(10) The term "State" means one of the fifty States or the District of Columbia, and for purposes of section 3198(a) and (b) of this title, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

(Pub. L. 89-10, title VI, § 617, as added Pub. L. 95-561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2266.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 720 of Pub. L. 92-318, title VII, June 23, 1972, 86 Stat. 369, which was classified to section 1619 of this title and was repealed effective Sept. 30, 1979.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in section 3196, 3199 of this title.

SUBCHAPTER VII—BILINGUAL EDUCATION PROGRAMS

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1205, 1234a, 1401, 3381 of this title.

§ 3221. Short title

This subchapter may be cited as the "Bilingual Education Act."

(Pub. L. 89-10, title VII, § 701, as added Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268.)

Prior Provisions

Provisions similar to this section were contained in a prior section 701 of Pub. L. 89-10, title VII, as added by Pub. L. 90-247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816 and reenacted by Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 503, which was set out as a note under section 880b of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

§ 3222. Policy; appropriations

(a) Recognizing—

(1) that there are large numbers of children of limited English proficiency;

(2) that many of such children have a cultural heritage which differs from that of English-speaking persons;

(3) that a primary means by which a child learns is through the use of such child's language and cultural heritage;

(4) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques;

(5) that, in addition, children of limited English proficiency and children whose primary language is English benefit through the fullest utilization of multiple language and cultural resources;

(6) children of limited English proficiency have a high dropout rate and low median years of education; and

(7) research and evaluation capabilities in the field of bilingual education need to be strengthened,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, and (B) for that purpose, to provide financial assistance to local educational agencies, and to State educational agencies for certain purposes, in order to enable such local educational agencies to develop and carry out such programs in elementary and secondary schools, including activities at the preschool level, which are designed to meet the educational needs of such children, with particular attention to children having the greatest need for such programs; and to demonstrate effective ways of providing, for children of limited English proficiency, instruction designed to enable them, while using their native language, to achieve competence in the English language.

(b)(1) For the purpose of carrying out the provisions of this subchapter, there are authorized to be appropriated $200,000,000 for fiscal year 1979; $250,000,000 for fiscal year 1980; $300,000,000 for fiscal year 1981; $350,000,000 for fiscal year 1982; and $400,000,000 for the fiscal year 1983.

(2) There are further authorized to be appropriated to carry out the provisions of section 3231(b)(5) of this title $12,000,000 for fiscal year 1979; $14,000,000 for fiscal year 1980; $16,000,000 for fiscal year 1981; and such sums as may be necessary for each of the two succeeding fiscal years.

(3) From the sums appropriated under paragraph (1) for any fiscal year, the Commissioner shall reserve $16,000,000 of that part thereof that does not exceed $70,000,000 for training activities carried out under section 3231(a)(3) of this title, and shall reserve for those activities not less than 20 per centum of that part thereof of which is in excess of $70,000,000.

(4) The Commissioner shall reserve from the amount not reserved pursuant to paragraph (3) of this subsection such amount as may be necessary, but not in excess of 1 per centum thereof, for the purposes of section 3242 of this title.

(Pub. L. 89-10, title VII, § 702, as added Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2268.)

Prior Provisions

Provisions similar to this section were contained in prior section 702 of Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 503, which was classified to section 880b of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 3231, 3232, 3241 of this title.

§ 3223. General provisions

(a) Definitions

The following definitions shall apply to the terms used in this subchapter:

(1) The term "limited English proficiency" when used with reference to individuals means—

(A) individuals who were not born in the United States or whose native language is a language other than English,

(B) individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner by regulation, and

(C) individuals who are American Indian and Alaskan Native students and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, subject to such regulations as the Commissioner determines to be necessary;

and, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English.

(2) The term "native language," when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

(3) The term "low-income" when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 2711(c)(2) of this title.

(4)(A) The term "program of bilingual education" means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, in which, with respect to the years of study to which such program is applicable—

(i) there is instruction given in, and study of, English and, to the extent necessary to allow a child to achieve competence in the English language, the native language of the children of limited English proficiency, and such instruction is given with appreciation for the cultural heritage of such children, and of other children in American society, and, with respect to elementary and secondary school instruction, such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to progress effectively through the educational system; and

(ii) the requirements in subparagraphs (B) through (F) of this paragraph and established pursuant to subsection (b) of this section are met.

(B) In order to prevent the segregation of children on the basis of national origin in programs assisted under this subchapter, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of bilingual instruction may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 per centum. The objective of the program shall be to assist children of limited English proficiency to improve their English language skills, and the participation of other children in the program must be for the principal purpose of contributing to the achievement of that objective. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.

(C) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.

(D) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his level of educational attainment.

(E) An application for a program of bilingual education shall—

(i) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of children of limited English proficiency, in accordance with criteria prescribed by the Commissioner;

(ii) be accompanied by documentation of such consultation and by the comments which the Council makes on the application; and

(iii) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals (of which a majority shall be parents of children of limited English proficiency) which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served.

(F) Parents of children participating in a program of bilingual education shall be informed of the instructional goals of the program and the progress of their children in such program.

(5) The term "Office" means the Office of Bilingual Education.

(6) The term "Director" means the Director of the Office of Bilingual Education.

(7) The term "Council" means the National Advisory Council on Bilingual Education.

(8) The term "other programs for persons of limited English proficiency" when used in sections 3241 and 3242 of this title means any programs within the Office of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the program authorized by section 1607(c) of this title, as in effect for fiscal year 1979, section 3198(a)(4) of this title for subsequent fiscal years, and the programs carried out in coordination with the provisions of this subchapter pursuant to section 122(a)(4)(C) and part J of the Vocational Education Act of 1963, and section 1205(a)(11) of this title, and programs and projects serving areas with high concentrations of persons of limited English proficiency pursuant to section 351d(b)(4) of this title.

(b) Establishment, publication, and distribution of suggested models for programs

The Commissioner, after receiving recommendations from State and local educational agencies and groups and organizations involved in bilingual education, shall establish, publish, and distribute, with respect to programs of bilingual education, suggested models with respect to pupil-teacher ratios, teacher qualifications, and other factors affecting the quality of instruction offered in such programs.

(c) Consultations respecting regulations

In prescribing regulations under this section, the Commissioner shall consult with State and local educational agencies, appropriate organizations representing parents and children of limited English proficiency, and appropriate groups and organizations representing teachers and educators involved in bilingual education.

(Pub. L. 89-10, title VII, § 703, as added Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2269.)

References in Text

Section 1607(c) of this title, referred to in subsec. (a)(8), was repealed effective Sept. 30, 1979.

The Vocational Education Act of 1963, referred to in subsec. (a)(8), is Pub. L. 88-210, title I, Dec. 18, 1963, 77 Stat. 403, as amended, which was classified to chapter 32 (§ 1241 et seq.) of this title. Section 122(a)(4)(C) and part J of the Act were classified to section 1262(a)(4)(C) and subchapter X (§§ 1393 to 1393f), respectively, of chapter 32 of this title. The Vocational Education Act of 1963 was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94-482, title II, § 202(a), Oct. 21, 1976, 90 Stat. 2169, and is now classified to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables. For additional details, see, also, the Codification note preceding section 1241 of this title.

Prior Provisions

Provisions similar to this section were contained in prior section 703 of Pub. L. 89-10, title VII, as added and amended Pub. L. 93-380, title I, § 105(a)(1), (b), Aug. 21, 1974, 88 Stat. 504, 512, which was classified to section 880b-1 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1205, 1401, 3231, 3233 of this title.

Part A—Financial Assistance for Bilingual Education Programs

§ 3231. Bilingual education programs

(a) Programs, activities, etc., subject to grants

Funds available for grants under this part shall be used for—

(1) the establishment, operation, and improvement of programs of bilingual education;

(2) auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of programs described in clause (1), including such activities as (A) adult education programs related to the purposes of this subchapter, particularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act [20 U.S.C. 1201 et seq.], and (B) preschool programs preparatory and supplementary to bilingual education programs;

(3)(A) the establishment, operation, and improvement of training programs for personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education and (B) auxiliary and supplementary training programs, which shall be included in each program of bilingual education, for personnel preparing to participate in, or personnel participating in, the conduct of such programs; and

(4) planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

(b) Submission, manner, contents, etc., of application for grant; procedures applicable and criteria for termination of assistance; criteria for approval of application; priority requirements; State coordination of technical assistance

(1) A grant may be made under this section only upon application therefore[1] by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies (or, in the case of a training activity described in clause (3)(B) of subsection (a) of this section, by eligible applicants as defined in section 3233 of this title). Each such application shall be made to the Commissioner at such time, in such manner, and containing such information as the Commissioner deems necessary, and

(A) include a description of the activities set forth in one or more of the clauses of subsection (a) of this section which the applicant desires to carry out; and

(B) provide evidence that the activities so described will make substantial progress toward making programs of bilingual education available to the children having need thereof in the area served by the applicant.

(2)(A) No order to submit an application in preparation for termination of assistance shall be issued to any local educational agency which shows adequate progress in meeting the goals of this subchapter and which demonstrates a clear fiscal inability to carry on a program without such assistance, if—

(i) there is a continuing presence of a substantial number of students of limited English proficiency in a program under this subchapter in such school or group of schools;

(ii) there has been a recent, substantial increase in the number of students of limited English proficiency who have enrolled in such program; or

(iii) there is an obligation of the local educational agency in which such school or group of schools is located to initiate compliance with an order of a court of the United States or of any State respecting services to be provided for those children, or a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] with respect to services to be provided for those children.

---

[1] So in original. Probably should be "therefor".

(B) The Commissioner, after review of program operations by each local educational agency, may, on the basis of a finding, after notice and opportunity for a hearing, that a school or group of schools of such an agency does not have a long-term need for continued assistance under this subchapter issue an order to such agency to prepare and submit within one year a revised application setting forth a schedule under which such school or group will cease receiving such assistance in the fifth year following the year of issuance of such order. Projects and activities for which funds were available prior to October 1, 1978, may continue to receive assistance under this part through September 30, 1983. The amount made available for the third, fourth, or fifth year of any such project or activity after the year of issuance of such an order shall be reduced in accordance with criteria established by the Commissioner designed to ensure the gradual assumption by the applicant of the costs of projects and activities assisted under this subchapter.

(C) The Commissioner shall annually review conditions in any school or group of schools for which an order has been issued under subparagraph (B), and shall suspend and withdraw any order issued under subparagraph (B) if, after such order has gone into effect, one or more of the conditions described in subparagraph (A) occurs, and shall permit the local educational agency involved to revise its application in the light of such conditions.

(D) Any order issued pursuant to subparagraph (B) shall be subject to review by the Commissioner if such review is sought within 60 days of the issuance of such order.

(3) An application for a grant under this part may be approved only if—

(A) the provision of assistance proposed in the application is consistent with criteria established by the Commissioner, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, which criteria shall be developed by his taking into consideration (i) the geographic distribution of children of limited English proficiency, (ii) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in subsection (a) of this section, (iii) with respect to grants to carry out programs described in clauses (1) and (2) of subsection (a) of this section, the relative ability of particular local educational agencies within the State to provide such services and activities, and (iv) with respect to such grants, the relative numbers of persons from low-income families sought to be benefited by such programs;

(B) in the case of applications from local educational agencies to carry out programs of bilingual education under subsection (a)(1) of this section, the Commissioner determines that the applicant shall expend adequate funds for purposes of such programs for auxiliary and supplementary training programs in accordance with the provisions of subsection (a)(3)(B) of this section and section 3233 of this title;

(C) the Commissioner determines—

(i) that the program will use the most qualified available personnel, including only those personnel who are proficient in the language of instruction and in English, to the extent possible, and the best resources, and will substantially increase the educational opportunities for children of limited English proficiency in the area to be served by the applicant;

(ii) that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials; and consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children; and

(iii) that the program includes a plan for evaluation consistent with guidelines prescribed by the Commissioner;

(D) the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner;

(E) the Commissioner determines that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program of bilingual education on a regular basis which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this subchapter is reduced or no longer available;

(F) the program of bilingual education for which assistance is sought will (i) serve those children most in need of assistance under this subchapter, (ii) provide measurable goals for determining when those children no longer need such assistance, and (iii) provide, from State and local sources, for necessary follow-up services to sustain the achievement of the children after they have left the program, except that if any child is enrolled in a bilingual program assisted under this subchapter for two years, that child shall have an individual evaluation establishing the need for continued services;

(G) Federal funds made available for the project or activity will be so used as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this clause shall (i) preclude a local education agency from using funds under this subchapter for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] with respect to services to be provided such children, or (ii) authorize any priority or preference to be assigned by the Commissioner to the funding of the activities under this subchapter; and

(H) the applicant demonstrates that, to the extent possible, personnel recruited and employed to carry out projects and activities under this subchapter are bilingual.

(4) In the consideration of initial applications from local educational agencies to carry out programs of bilingual education under paragraph (1) of this subsection, the Commissioner shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Commissioner shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families sought to be benefited by such programs.

(5)(A) Upon an application from a State educational agency, the Commissioner shall make provision for the submission and approval of a State program for the coordination by such State agency of technical assistance to programs of bilingual education in such State assisted under this subchapter. Such State program shall contain such provisions, agreements, and assurances as the Commissioner shall, by regulation, determine necessary and proper to achieve the purposes of this subchapter, including assurances that funds made available under this section for any fiscal year will be so used as to supplement, and to the extent practical, increase the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

(B) Except as provided in the second sentence of this subparagraph, the Commissioner shall pay from the amounts authorized for these purposes pursuant to section 3222 of this title for each fiscal year to each State educational agency which has a State program submitted and approved under subparagraph (A) such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Commissioner to any State educational agency under the preceding sentence for any fiscal year shall not exceed 5 per centum of the aggregate of the amounts paid under this part to local educational agencies in the State of such State educational agency in the fiscal year preceding the fiscal year in which this limitation applies.

(c) Priority for distribution of funds

In determining the distribution of funds under this subchapter, the Commissioner shall give priority to areas having the greatest need for programs assisted under this subchapter.

(d) Programs in Commonwealth of Puerto Rico

Programs of bilingual education under this subchapter in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this subchapter, include programs of instruction, teacher training, curriculum development, and evaluation and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

(e) Longevity of application; payments pursuant to prior approved application

(1) An application of a local educational agency for assistance under this subchapter may cover a period of from one to three years. A new application shall be required for any assistance under this subchapter for years subsequent to such period. The Commissioner shall base the decision as to the length of time for which an application will be approved on—

(A) the severity of the problems addressed by the program for which assistance is being sought;

(B) the nature of the activities proposed in the application;

(C) the likely duration of the problems addressed by the application; and

(D) such other criteria, established by the Commissioner, as will assure the most effective use of the available funds in achieving the purposes of this subchapter.

(2) If the Commissioner approves an application of a local educational agency under this subchapter for a period covering more than one fiscal year, no subsequent application shall be required from such agency in any fiscal year during such period unless the agency proposes to carry out, in any such fiscal year, activities not included in the approved application. Payments to any such agency for any fiscal year subsequent to the first fiscal year for which the application has been approved shall be made only if—

(A) sufficient appropriations are available for making payments in each such subsequent fiscal year;

(B) the Commissioner determines that the agency is not ineligible for assistance under this subchapter in each subsequent fiscal year; and

(C) the agency demonstrates, by such means as the Commissioner may prescribe, that satisfactory progress is being made toward achieving the objectives of the program for which assistance has been made available under this subchapter, including objectives of section 3223(a)(4)(E)(iii) and (a)(4)(F) of this title.

(f) Inability or unwillingness of applicant to provide for participation of children with limited English proficiency in program; subsequent remedial activities

If the Commissioner determines that an applicant for assistance under this subchapter is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, nonpublic schools, as required by paragraph (3)(C)(ii) of subsection (b) of this section, the Commissioner shall—

(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements; or

(2) reduce the amount of the grant to such applicant by the amount which is required for the Commissioner to arrange (such as through a contract with a nonprofit, nonsectarian agency, organization, or institution) to assess the needs of the children in the area to be served for a program of bilingual instruction and to carry out such a program for the children.

(Pub. L. 89-10, title VII, § 721, as added Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2271.)

REFERENCES IN TEXT

The Adult Education Act, referred to in subsec. (a)(2), is Pub. L. 89-750, title III, Nov. 3, 1966, 80 Stat. 1216, as amended, which is classified principally to chapter 30 (§ 1201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (b)(2)(A)(iii) and (3)(G), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 721 of Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 506, which was classified to section 880b-7 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3222, 3233, 3261 of this title.

§ 3232. Indian children in schools

(a) Implementation of programs by nonprofit institution or organization of Indian tribe operating elementary or secondary school

For the purpose of carrying out programs under this part for individuals served by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this subchapter.

(b) Payments to applicants

From the sums appropriated pursuant to section 3222(b) of this title, the Commissioner is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

(c) Assessment of programs by Assistant Secretary of the Interior for Bureau of Indian Affairs

The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Commissioner, by September 30, 1980, an assessment of the needs of Indian children with respect to the purposes of this subchapter in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

(Pub. L. 89-10, title VII, § 722, as added Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2276.)

REFERENCES IN TEXT

The Johnson-O'Malley Act (25 U.S.C. 452 et seq.), referred to in subsec. (c), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, which is classified to sections 452 to 457 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 452 of Title 25 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 722 of Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 507, which was classified to section 880b-8 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3233. Training; definition

(a)(1) In carrying out the provisions of clauses (1) and (3) of subsection (a) of section 3231 of this title, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, as defined in subsection (b) of this section, provide for—

(A)(i) training, carried out in coordination with any other programs training auxiliary educational personnel, designed (I) to prepare personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and lateral mobility, (II) to train teachers, administrators, counselors, paraprofessionals, teacher aides, and parents, and (III) to train persons to teach and counsel such persons, and (ii) special training programs designed (I) to meet individual needs, and (II) to encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school facilities, as related to bilingual education; and

(B) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs.

(2) In addition the Commissioner is authorized to award fellowships for study in the field of training teachers for bilingual education. For the fiscal year ending June 30, 1975, not less than 100 fellowships leading to a graduate degree shall be awarded under the preceding sentence for preparing individuals to train teachers for programs of bilingual education. Such fellowships shall be awarded in proportion to the need for teachers of various groups of individuals with limited English proficiency. For each fiscal year after June 30, 1975, and prior to October 1, 1983, the Commissioner shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the number of fellowships in the field of training teachers for bilingual education which he recommends will be necessary for that fiscal year.

(3) The Commissioner shall include in the terms of any arrangement described in paragraphs (1) and (2) of subsection (a) of this section provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(4) In making grants or contracts under this section, the Commissioner shall give priority to eligible applicants with demonstrated competence and experience in the field of bilingual education. Funds provided under grants or contracts for training activities described in this section to or with a State educational agency, separately or jointly, shall in no event exceed in the aggregate in any fiscal year 15 per centum of the total amount of funds obligated for training activities pursuant to clauses (1) and (3) of subsection (a) of section 3231 of this title in such year.

(5) The Commissioner shall undertake an ongoing longitudinal study of the impact of recipients of such fellowships on the field of bilingual education, and shall disseminate research undertaken by recipients of such fellowships.

(6) Any person receiving assistance under this subsection shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to the training of teachers and related personnel of bilingual education, as further determined by the Commissioner through regulations. The Commissioner may waive this requirement in extraordinary circumstances.

(7) The Commissioner shall issue regulations specifying such activities as shall constitute training under this section and section 3231(a)(3)(B) of this title.

(8) An application for a grant or contract for preservice or inservice training activities described in clause (A)(i)(I) and clause (A)(ii)(I) and in subsection (a)(1)(B) of this section shall be considered an application for a program of bilingual education for the purposes of subsection (a)(4)(E) of section 3223 of this title.

(b) For the purposes of this section, the term "eligible applicants" means—

(1) institutions of higher education (including junior colleges and community colleges) and private nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency;

(2) local educational agencies; and

(3) State educational agencies.

(Pub. L. 89-10, title VII, § 723, as added Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2276, and amended S. Res. 30, Mar. 7, 1979.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 723 of Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 508, which was classified to section 880b-9 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3231 of this title.

PART B—ADMINISTRATION

§ 3241. Office of Bilingual Education

(a) Establishment; implementation of functions of Commissioner

There shall be, in the Office of Education, an Office of Bilingual Education (hereafter in this section referred to as the "Office") through which the Commissioner shall carry out his functions relating to bilingual education.

(b) Director; appointment; functions; organization of Office

(1) The Office shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Commissioner.

(2) The Office shall be organized as the Director determines to be appropriate in order to enable him to carry out his functions and responsibilities effectively.

(c) Reporting requirements of Commissioner

The Commissioner, in consultation with the Council, shall prepare and, not later than February 1, 1980, 1982, and 1984, shall submit to the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of this subchapter and of other programs for persons of limited English proficiency. Such report shall include—

(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts, including (A) not later than October 1, 1977, the results of a survey of the number of such children and persons in the States, and (B) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

(2) a report on and an evaluation of the activities carried out under this subchapter during the preceding fiscal year and the extent to which each of such activities achieves the policy set forth in section 3222(a) of this title;

(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this subchapter and those carried out under other programs for persons of limited English proficiency and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs, and the number of other educational personnel needed to carry out programs of bilingual education in the States and a statement describing the activities carried out under this subchapter designed to prepare teachers and other educational personnel for such programs;

(5) a description of the personnel, the functions of such personnel, and information available at the regional offices of the Department of Health, Education, and Welfare dealing with bilingual programs within that region; and

(6) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the two succeeding fiscal years.

The Commissioners[1] shall conduct a study on the extent of the need for these programs in the Commonwealth of Puerto Rico, and shall report the results thereof, together with recommendations, to the President and Congress not later than eighteen months after November 1, 1978.

(d) Development of program models by Commissioner; publication in Federal Register

The Commissioner shall, within six months after November 1, 1978, develop and publish in the Federal Register (1) models for programs of bilingual education which may include suggested teacher-pupil ratios, teacher qualifications, and other factors affecting the quality of instruction offered, and which shall represent a variety of types of such programs, and (2) models for the evaluation of such programs as to the progress made by participants therein attaining English language skills.

(e) Reporting and developmental functions of Secretary

(1) The Secretary, in consultation with the Council, shall prepare and, not later than September 30, 1980, submit to the Congress and the President a report identifying the approximate number of children of limited English proficiency in the Nation, by language and by State.

(2) By September 30, 1980, the Secretary shall develop methods for identifying children of limited English proficiency who are in need of bilingual education programs.

(3) By September 30, 1980, the Secretary shall develop evaluation and data gathering models, which take into account linguistic and cultural differences of the child, which consider the availability and the operations of State programs for such children, and shall include allowances for variables which are applicable to programs under this subchapter such as pupil-teacher ratios, teacher qualifications, length of the program, hours of instruction, percentage of children in the classroom who are English dominant and the percentage who have limited English proficiency.

(f) Additional reporting requirements of Secretary

The Secretary shall prepare and submit to the President and to the Congress not later than December 31, 1981, a report setting forth recommendations on the methods of converting, not later than July 1, 1984, the bilingual education program from a discretionary grant program to a formula grant program to serve students of limited English proficiency and recommendations on whether or not such conversion would best serve the needs of such students. The study required by this subsection shall consider the findings of other studies required to be made under this section, and shall include cost estimates for the phasing in of the formula grant program.

---

[1] So in original. Probably should be "Commissioner".

(g) Coordination and cooperative responsibilities of Commissioner

In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Commissioner shall coordinate and closely cooperate with other programs administered by the Office of Education, including such areas as teacher training, program content, research, and curriculum. The Commissioner's annual report under subsection (c) of this section shall include demonstration that such coordination has taken place.

(h) Staffing responsibilities of Commissioner

The Commissioner shall insure that the Office of Bilingual Education is staffed with sufficient personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this subchapter.

(Pub. L. 89-10, title VII, § 731, as added Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2278.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 731 of Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 509, which was classified to section 880b-10 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3223, 3242 of this title.

§ 3242. National Advisory Council on Bilingual Education

(a) Establishment; membership; Chairman; termination

Subject to part D of the General Education Provisions Act [20 U.S.C. 1233 et seq.], there shall be a National Advisory Council on Bilingual Education composed of fifteen members appointed by the Secretary, one of whom he shall designate as Chairman. At least eight of the members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English proficiency, at least one of whom shall be representative of persons serving on boards of education operating programs of bilingual education. At least two members shall be experienced in the training of teachers in programs of bilingual education. At least two members shall be persons with general experience in the field of elementary and secondary education. At least two members shall be classroom teachers of demonstrated teaching abilities using bilingual methods and techniques. The Council shall also include at least two parents of students whose language is other than English and at least one State educational agency representative and one member at large. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English proficiency and the geographic areas in which they reside. Subject to section 448(b) of the General Education Provisions Act [20 U.S.C. 1233g(b)], the Advisory Committee shall continue to exist until October 1, 1983.

(b) Meetings

The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act [20 U.S.C. 1233e(a)], not less often than four times in each year.

(c) Developmental and reporting functions

The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this subchapter, including the development of criteria for approval of applications, and plans under this subchapter, and the administration and operation of other programs for persons of limited English proficiency. The Council shall prepare and, not later than March 31 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this subchapter, including those items specified in section 3241(c) of this title, and the administration and operation of other programs for persons of limited English proficiency.

(d) Staffing and informational responsibilities of Commissioner

The Commissioner shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445, of the General Education Provisions Act [20 U.S.C. 1233d], and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively.

(Pub. L. 89-10, title VII, § 732, as added Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2280.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (a), is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814. Part D of the General Education Provisions Act was added as Part C of title IV by Pub. L. 91-230, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166, redesignated Part D by Pub. L. 92-318, § 301(a)(1), June 23, 1972, 86 Stat. 326, and is classified generally to subchapter IV (§ 1233 et seq.) of chapter 31 of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 732 of Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88

Stat. 510, which was classified to section 880b-11 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3222, 3223, 3343, 3344 of this title.

PART C—SUPPORTIVE SERVICES AND ACTIVITIES

§ 3251. Administration

(a) The provisions of this part shall be administered by the Assistant Secretary, in consultation with—

(1) the Commissioner, through the Office of Bilingual Education; and

(2) the Director of the National Institute of Education, notwithstanding the second sentence of section 1221e(b)(1) of this title;

in accordance with regulations.

(b) The Assistant Secretary shall, in accordance with clauses (1) and (2) of subsection (a) of this section, develop and promulgate the regulations for this part and then delegate his functions under this part, as may be appropriate under the terms of section 3252 of this title.

(Pub. L. 89-10, title VII, § 741, as added Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2281.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 741 of Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, which was classified to section 880b-12 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3252. Bilingual education research and development

(a) Competitive contracts for financial assistance by Commissioner with institutions of higher education, etc.; programs of National Institute of Education; coordination of activities by Assistant Secretary

(1) The Commissioner shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private and non-profit organizations, State educational agencies, and individuals.

(2) The National Institute of Education, after consultation with the Office of Bilingual Education, shall carry out a program of research in the field of bilingual education in order to enhance the effectiveness of bilingual education carried out under this subchapter and other programs for persons who have language proficiencies other than English.

(3) The Assistant Secretary shall coordinate research activities of the National Institute of Education, with the Office of Bilingual Education, the National Center for Education Statistics, and other appropriate agencies, in order to develop a national research program for bilingual education.

(b) Scope of authorized activities

Research activities authorized to be assisted under this section shall include—

(1) studies to determine and evaluate effective models for bilingual-bicultural programs;

(2) studies to determine (A) language acquisition characteristics and (B) the most effective method of teaching English within the context of a bilingual-bicultural program to students who have language proficiencies other than English;

(3) a five-year longitudinal study in order to measure the effect of this subchapter on the education of students who have language proficiencies other than English;

(4) studies to determine the most effective and reliable methods of identification of students who should be entitled to services under this subchapter;

(5) the operation of a clearinghouse on information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and such related programs;

(6) studies to determine the most effective methods of teaching reading to children and adults who have language proficiencies other than English;

(7) studies to determine the effectiveness of teacher training preservice and inservice programs funded under this subchapter;

(8) studies to determine the critical cultural characteristics of selected groups of individuals assisted under this subchapter for purposes of teaching about culture in the program.

(c) Consultation requirements of Commissioner and Director of National Institute of Education

In carrying out their responsibilities under this section, the Commissioner and the Director of the National Institute of Education shall provide for periodic consultation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

(d) Publication and dissemination of information by Assistant Secretary

The Assistant Secretary shall publish and disseminate all requests for proposals in research and development assisted under this subchapter.

(e) Competitive contracts for development and dissemination of instructional materials and equipment by Commissioner and Director of National Institute of Education with public agencies, etc.

The Commissioner and the Director of the National Institute of Education shall, through competitive contracts with appropriate public agencies and private institutions and organizations, develop and disseminate instructional materials and equipment suitable for bilingual education programs. The quality of materials developed pursuant to this subsection shall be comparable to the quality of materials provided in classrooms for English dominant children. In the development of instructional materials for the purpose of this subsection, the availability of materials already in existence from private and public sources shall be taken into account, and special attention shall be given to language groups for whom private organizations are unlikely to develop such materials.

(f) Authorization of appropriations

There is authorized to be appropriated for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, $20,000,000 to carry out the provisions of this section.

(Pub. L. 89-10, title VII, § 742, as added Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2281.)

PRIOR PROVISIONS

Provisions similar to this section were contained in prior section 742 of Pub. L. 89-10, title VII, as added Pub. L. 93-380, title I, § 105(a)(1), Aug. 21, 1974, 88 Stat. 511, which was classified to section 880b-13 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3251 of this title.

PART D—CONTINUED BILINGUAL EDUCATION ASSISTANCE

§ 3261. Assistance to local educational agencies eligible under the Emergency School Aid Act

(a) Program authorization; allotment of funds; granting and contracting authority; scope of grants and contracts; eligibility for grant or contracts; nature of programs or projects

(1) The Commissioner, from funds appropriated under subsection (c) of this section, shall carry out a program to meet the needs of minority group children (as such term is defined for purposes of subchapter VI of this chapter) who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. The Commissioner shall, for fiscal year 1980, allot to each local educational agency an amount which bears the same ratio to such funds as the amount such agency received under section 1607(c) of this title for fiscal year 1979, bears to the total amount of funds available under such section. From such allotment the Commissioner is authorized to make grants to and contracts with—

(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more local educational agencies which are eligible for assistance under section 3196 of this title, designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills, in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members;

(B) local educational agencies which are eligible for assistance under such section 3196 of this title for the purpose of engaging in such activities; or

(C) local educational agencies which are eligible to receive assistance under such section 3196 of this title, for the purpose of carrying out activities to implement curricula developed under clauses (A) and (B) or curricula otherwise developed which the Commissioner determines meets the purposes stated in clause (A).

In making grants and contracts under this paragraph, the Commissioner shall assure that sufficient funds remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Commissioner determines meet the purposes stated in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph the Commissioner shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to ensure training of teachers and other ancillary educational personnel and meets the requirements of section 3231(b)(3)(C)(ii) of this title.

(2)(A) In order to be eligible for a grant or contract under this subsection—

(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policy-making authority with respect to the program or project, and (II) have demonstrated to the Commissioner that it has the capacity to obtain the services of adequately trained and qualified staff.

(B) A program or project committee or board, established pursuant to subparagraph (A), must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the minority group the educational needs of which the program or project is intended to meet.

(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under section 3196 of this title. The Commissioner shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

(b) Programs or projects as part of bilingual-bicultural education program

All programs or projects assisted under subsection (a) of this section shall be part of a program of bilingual-bicultural education.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out subsection (a) of this section $15,000,000 for fiscal year 1980, $20,000,000 for fiscal year 1981, $25,000,000 for fiscal year 1982, and $30,000,000 for fiscal year 1983.

(Pub. L. 89-10, title VII, § 751, as added Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2282.)

References in Text

Section 1607(c) of this title, referred to in subsec. (a)(1), was repealed effective Sept. 30, 1979.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SUBCHAPTER VIII—COMMUNITY SCHOOLS

Subchapter Referred to in Other Sections

This subchapter is referred to in section 3381 of this title.

§ 3281. Short title

This subchapter may be cited as the "Community Schools and Comprehensive Community Education Act of 1978".

(Pub. L. 89-10, title VIII, § 801, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2284.)

Prior Provisions

Provisions similar to this section were contained in section 405(a) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 549, which was classified to section 1864(a) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

A prior section 801 of Pub. L. 89-10, title VIII, formerly title VI, § 601, Apr. 11, 1965, 79 Stat. 55, was classified to section 881 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

§ 3282. Statement of findings and policy

(a) The Congress finds that—

(1) the school is an integral part of the local human service delivery system;

(2) the school is a primary institution for the delivery of services and may be the best instrument for the coordination of frequently fragmented services, including benefits obtained by energy savings and parental involvement in the delivery of such services;

(3) community education promotes a more efficient use of public education facilities through an extension of school buildings and equipment;

(4) as the primary educational institution of the community, the school is most effective when it involves the people of that community in a program to fulfill the educational needs of individuals of the community; and

(5) community schools provide a great potential for the use of needs assessment as a basis for human resources policies.

(b) It is the purpose of this subchapter—

(1) to provide in collaboration with other public and nonprofit agencies educational, recreational, cultural, and other related community and human services, in accordance with the needs, interests, and concerns of the community through the expansion of community education programs;

(2) to coordinate the delivery of social services to meet the needs and preferences of the residents of the community served by the school;

(3) to provide for an efficient, energy-conserving use of school facilities; and

(4) to provide for a research and development emphasis in community education which can contribute to an improved formulation of Federal, State, and local policy.

(Pub. L. 89-10, title VIII, § 802, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2284.)

Prior Provisions

Provisions similar to this section were contained in section 405(b) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 549, which was classified to section 1864(b) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

A prior section 802 of Pub. L. 89-10, title VIII, formerly title VI, § 601, Apr. 11, 1965, 79 Stat. 57, was classified to section 882 of this title prior to the repeal of that section by Pub. L. 91-230.

§ 3283. Definition of community education program

For the purpose of this subchapter, a "community education program" means a program in which a public building, including but not limited to, a public elementary or secondary school, or a community or junior college (or a related extension center), is used as a community center operated by a local educational agency in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, health care, cultural, and other related community and human services for the community that the center serves in accordance with the needs, interests, and concerns of that community.

(Pub. L. 89-10, title VIII, § 803, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2285.)

Prior Provisions

Provisions similar to this section were contained in section 405(c) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 549, which was classified to section 1864(c) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

A prior section 803 of Pub. L. 89-10, title VIII, formerly title VI, § 603, Apr. 11, 1965, 79 Stat. 57, was classified to section 883 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

§ 3284. State programs for community education; authorization of appropriations

(a) The Commissioner is authorized to make grants to State educational agencies in accordance with the provisions of this subchapter, to pay the Federal share of the cost of planning, establishing, expanding, and operating community education programs.

(b) There are authorized to be appropriated to carry out the provisions of subsection (a) of this section $40,000,000 for fiscal year 1979, $50,000,000 for fiscal year 1980, $60,000,000 for fiscal year 1981, $50,000,000 for fiscal year 1982, and $40,000,000 for fiscal year 1983.

(Pub. L. 89-10, title VIII, § 804, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2285.)

Prior Provisions

Provisions similar to this section were contained in section 405(d)(1) and (i) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 549, which was classified to section 1864(d)(1) and (i) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

A prior section 804 of Pub. L. 89-10, title VIII, as added Pub. L. 93-380, title I, § 106, Aug. 21, 1974, 88 Stat. 512, was classified to section 884 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 3285, 3288 of this title.

§ 3285. Allotment; reallotment

(a)(1) From the funds appropriated pursuant to section 3284 of this title, the Commissioner shall allot not more than 1 per centum among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Bureau of Indian Affairs schools, according to their respective needs.

(2) From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to such remainder as the population of the State bears to the population of all States except that no State shall receive less than $50,000 in any fiscal year. For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) That portion of any State's allotment under subsection (a) of this section for a fiscal year which the Commissioner determines will not be required for the period such allotment is available, for carrying out the purposes of this subchapter, shall be available for reallotment from time to time on such date during such period as the Commissioner may fix, to other States in proportion to the original allotment to such States under subsection (a) of this section for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates will be needed in such State and will be used for such period for carrying out applications approved under this subchapter, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) of this section for such year.

(Pub. L. 89-10, title VIII, § 805, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2285.)

Prior Provisions

A prior section 805 of Pub. L. 89-10, title VIII, formerly title VI, § 605, Apr. 11, 1965, 79 Stat. 58, was classified to section 885 of this title prior to the complete revision of Pub. L. 89-10 Act by Pub. L. 95-561.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3286. Use of community education programs for non-Federal contribution in certain Federal programs

(a) Notwithstanding any other provision of law, any State or local public agency may use the fair value of any community service program assisted under this subchapter as part or all of the non-Federal contribution required under any program set forth in subsection (b) of this section, if—

(1) a portion of any program set forth in subsection (b) of this section is implemented in any building conducting a community education program assisted under this subchapter, and

(2) there is a necessary relationship between such portion of the program set forth in subsection (b) of this section and any element of the community education program assisted under this subchapter.

(b) Programs to which subsection (a) of this section applies are—

(1) the Public Health Service Act [42 U.S.C. 201 et seq.],

(2) the Headstart-Follow Through Act [42 U.S.C. 2921 et seq.],

(3) title XX of the Social Security Act, relating to child care and day care and other services [42 U.S.C. 1397 et seq.],

(4) the youth employment demonstration programs authorized under the Comprehensive Employment and Training Act [29 U.S.C. 801 et seq.],

(5) the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.],

(6) the Vocational Education Act of 1963 [20 U.S.C. 2301 et seq.],

(7) the Adult Education Act [20 U.S.C. 1201 et seq.],

(8) title I and title X of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 1135 et seq.], relating to community services and continuing education programs and community college programs,

(9) titles I through IV and VI through IX of the Economic Opportunity Act of 1964 (also known as the Community Services Act of 1974) [42 U.S.C. 2711 et seq., 2781 et seq., 2841 et seq., 2901 et seq., 2941 et seq., 2981 et seq., 2991 et seq., 2995 et seq.],

(10) the Legal Services Corporation Act [42 U.S.C. 2996 et seq.],

(11) Safe Streets and Omnibus Crime Control Act of 1968 [42 U.S.C. 3701 et seq.],

(12) science education programs assisted under the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.],

(13) the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and

(14) such other community service programs as the Assistant Secretary deems appropriate.

(Pub. L. 89-10, title VIII, § 806, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2286.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (b)(1), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, now known as the Comprehensive Employment and Training Act, which is classified generally to chapter 6A (§ 201 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Headstart-Follow Through Act, referred to in subsec. (b)(2), is title V of Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 527, as amended, which is classified generally to subchapter V (§ 2921 et seq.) of Title 42. For complete classification of this Act to the Code, see section 2921 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XX of the Social Security Act is classified generally to subchapter XX (§ 1397 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (b)(4), is Pub. L. 92-203, Dec. 28, 1973, 87 Stat. 839, as amended, now known as the Comprehensive Employment and Training Act, which is classified generally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables.

The Older Americans Act of 1965, referred to in subsec. (b)(5), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§ 3001 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Vocational Education Act of 1963, referred to in subsec. (b)(6), is Pub. L. 88-210, title I, Dec. 18, 1963, 77 Stat. 403, as amended, which was classified to chapter 32 (§ 1241 et seq.) of this title and which was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94-482, title II, § 202(a), Oct. 21, 1976, 90 Stat. 2169, and is now classified to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables. For additional details, see, also, the Codification note preceding section 1241 of this title.

The Adult Education Act, referred to in subsec. (b)(7), is Pub. L. 89-750, title III, Nov. 3, 1966, 80 Stat. 1216, as amended, which is classified principally to chapter 30 (§ 1201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (b)(8), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title I and title X of the Higher Education Act of 1965 are classified generally to subchapter I (§ 1001 et seq.) and subchapter X (§ 1135 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Economic Opportunity Act of 1964, referred to in subsec. (b)(9), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Titles I to IV and VI to IX of the Economic Opportunity Act of 1964 are classified generally to subchapters I (§ 2711 et seq.), II (§ 2781 et seq.), III (§ 2841 et seq.), IV (§ 2901 et seq.), VI (§ 2941 et seq.), VII (§ 2981 et seq.), VIII (§ 2991 et seq.), and IX (§ 2995 et seq.) of chapter 34 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 42 and Tables.

The Legal Services Corporation Act, referred to in subsec. (b)(10), is Pub. L. 88-452, title X, as added Pub. L. 93-355, § 2, July 25, 1974, 88 Stat. 378, as amended, which is classified generally to subchapter X (§ 2996 et seq.) of chapter 34 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 2996 of Title 42 and Tables.

The Safe Streets and Omnibus Crime Control Act of 1968, referred to in subsec. (b)(11), probably means the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90-351, June 19, 1968, 82 Stat. 197, as amended, which is classified principally to chapter 46 (§ 3701 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 42 and Tables.

The National Science Foundation Act of 1950, referred to in subsec. (b)(12), is act May 10, 1950, ch. 171, 64 Stat. 149, as amended, which is classified generally to chapter 16 (§ 1861 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1861 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b)(13), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 806 of Pub. L. 89-10, title VIII, formerly title VII, § 706, as added Pub. L. 89-750, title I, § 171, Nov. 3, 1966, 80 Stat. 1209, was classified to section 886 of this title prior to the repeal of that section by Pub. L. 91-230.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3288, 3290, 3294 of this title.

§ 3287. Uses of funds

Payments made under this subchapter to any State educational agency and to any local educational agency, either directly by the Commissioner under section 3289 of this title or in accordance with a State plan approved under section 3288 of this title, may be used by such

State and local educational agencies for the Federal share of the cost of planning, establishing, expanding, and operating community education programs including—

(1) educational, cultural, recreational, health care, and other related community and human services, whether or not in the form of formal courses,

(2) activities making the school or other public facilities and equipment available for use by public agencies and private nonprofit organizations, individuals and groups in the community,

(3) preventive health, dental care, and nutrition,

(4) special programs for particular target groups, such as older persons,

(5) services designed to eliminate the high incidence of suspension, expulsion, and other disciplinary action involving chronically maladjusted students,

(6) services for students who withdraw from school before completing secondary school requirements, regardless of age or time of withdrawal,

(7) services for mentally or physically handicapped individuals or other health impaired individuals,

(8) rehabilitation purposes for juvenile and adult offenders,

(9) parent education for care, development, and education of handicapped children,

(10) training programs in institutions of higher education for the purpose of assisting full-time training for personnel who are engaged in or who intend to engage in community education programs,

(11) specialized high schools or schools within schools organized around particular interests such as the arts, or using flexible scheduling and summer learning programs to take into account special needs of students, or creating interrelationships between secondary schools and such community resources as museums, cultural centers, and institutions of higher education,

(12) development of means to use technology to improve the relationship between the school, the home, and community resources such as libraries, museums, and cultural centers,

(13) early childhood and family education grants for programs operated by State and local education agencies and public and private, nonprofit agencies or organizations for children below age six, which may include identification of potential barriers to learning, education of parents in child development, family services, education for parenthood programs and referral services, and

(14) leisure education.

(Pub. L. 89-10, title VIII, § 807, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2286.)

PRIOR PROVISIONS

A prior section 807 of Pub. L. 89-10, title VIII, formerly title VII, § 707, as added and renumbered Pub. L. 90-247, title I, § 172, title VII, § 702, Jan. 2, 1968, 81 Stat. 806, 816, was classified to section 887 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3082, 3288, 3289, 3290, 3295 of this title.

§ 3288. State plan

(a) Any State desiring to participate in the program authorized by this subchapter shall submit through its State educational agency to the Commissioner a plan, in such detail as the Commissioner deems necessary. Each such plan shall provide satisfactory assurance—

(1) that payments made under this subchapter will be used for community education programs described in section 3287 of this title, and to the extent practicable such payments will be used to expand community education programs of the schools of local educational agencies within the State;

(2) that provide, after consultation with the appropriate State agencies, the State will develop a ten-year plan for the coordination of education programs with all relevant community services, including but not limited to State and local recreation authorities and associations;

(3) that 80 per centum of the amounts received by the State from its allotment will be distributed among local educational agencies within the State with due regard for such factors as the size of the population to be served by the community education program of the local educational agency;

(4) that community education programs assisted under this part will, to the extent feasible, serve all age groups within the community, including preschool children, children and youth in school, out of school youths, adults, and senior citizens as well as groups in the community with special needs for community education program services, such as individuals with limited speaking ability, mentally and physically handicapped individuals, and other health impaired individuals;

(5) that the community education program will include procedures for the systematic and effective identification and documentation of the needs and concerns of the community;

(6) that the community education program will provide for the identification and use of existing educational, cultural, recreational, health care, and other resources outside the school or other public facility (including the services of volunteers) and will contain provisions to encourage the use of cooperative arrangements with public and private agencies to make the maximum use of existing resources within the community;

(7) the community education program will provide for the active and continuous involvement on an advisory basis of institutions, groups, and individuals in the community to be served by the program and the active and continuous involvement of parents of school

children in the planning, development, and implementation of programs;

(8) that the State educational agency will establish procedures for submitting applications by local educational agencies within that State for payments under this subchapter, for approval by the State educational agency, including appropriate procedures to assure that the State educational agency concerned will not disapprove an application of any local educational agency without notice and opportunity for a hearing;

(9) that the State will pay from non-Federal sources the remaining cost of carrying out the State plan;

(10) that the State educational agency, from the funds received by it under section 3284 of this title for any fiscal year, will reserve not to exceed 15 per centum of such funds for the administration of the State plan, technical assistance to local educational agencies, the conduct of conferences and dissemination activities among local educational agencies within the State and other community service agencies, the coordination between local educational agencies, community colleges, and other institutions of higher education in the State with respect to the coordination of the delivery of social services, with particular emphasis on the application of section 3286 of this title and the training and conversion activities authorized by section 3292 of this title; and

(11) that effective procedures will be adopted to evaluate the effectiveness of the community education programs assisted under this subchapter (including where possible payments made directly under section 3289 of this title).

(b) The Commissioner shall approve a State plan which meets the requirements of subsection (a) of this section, and he shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State educational agency.

(Pub. L. 89-10, title VIII, § 808, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2287.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 405(d) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 549, which was classified to section 1864(d) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

A prior section 808 of Pub. L. 89-10, title VIII, as added Pub. L. 91-230, title I, § 164, Apr. 13, 1970, 84 Stat. 153, was classified to section 887a of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3082, 3287, 3289, 3295 of this title.

§ 3289. Grants to local educational agencies

(a) Authorization, scope, etc.

The Commissioner is authorized to make grants to local educational agencies for the Federal share of the cost of planning, establishing, expanding, and operating community education programs including any use described in section 3287 of this title, whenever the Commissioner determines, pursuant to an application filed under paragraph (2), that the community education program for which application is made under subsection (b) of this section holds reasonable promise of success and is in substantial compliance with the requirements of section 3288(a)(4), (5), (6), and (7) of this title.

(b) Time, manner, and contents of application; collaboration between agencies

(1) No grant may be made under this section unless an application is made to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require.

(2) No grant may be made to a local education agency to plan, direct, or operate any program or activity that is being conducted by another public agency unless the Commissioner determines that there is collaboration between the local education agency and the public agency conducting such program or activity.

(c) Authorization of appropriations

There are authorized to be appropriated $20,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, $30,000,000 for fiscal year 1981, $25,000,000 for fiscal year 1982, and $20,000,000 for fiscal year 1983 to carry out the provisions of this section.

(Pub. L. 89-10, title VIII, § 809, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2289, and amended Pub. L. 96-46, § 1(19), Aug. 6, 1979, 93 Stat. 339.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 405(d) of the Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 549, which was classified to section 1864(d) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

A prior section 809 of Pub. L. 89-10, title VIII, as added Pub. L. 91-230, title I, § 164, Apr. 13, 1970, 84 Stat. 154, was classified to section 887b of this title prior to repeal of that section by Pub. L. 93-380.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-46 designated existing provision as par. (1) and added par. (2).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3287, 3288, 3295 of this title.

§ 3290. Grants to public agencies and nonprofit organizations for delivery of community services through community education

(a) Authorization, scope, etc.

The Commissioner is authorized to make grants to and contracts with public agencies and nonprofit private organizations to encourage the use of school facilities and other facilities eligible to receive assistance under this subchapter for the efficient and coordinated delivery of community services set forth in sections 3286(b) and 3287 of this title. Each such application shall contain provisions to assure that the public agency or nonprofit private organization making application has entered or will enter into contractual arrangements or other suitable forms of agreement with the local educational agency concerned.

(b) Time, manner, and contents of application

No grant may be made under the provisions of this section unless an application is made to the Commissioner at such time, in such manner and containing or accompanied by such information, as the Commissioner may reasonably require.

(c) Authorization of appropriations

There are authorized to be appropriated $5,000,000 for fiscal year 1979, $7,000,000 for fiscal year 1980, $10,000,000 for fiscal year 1981, $7,000,000 for fiscal year 1982, and $5,000,000 for fiscal year 1983 to carry out the provisions of this section.

(Pub. L. 89-10, title VIII, § 810, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2289.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 405(d) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 549, which was classified to section 1864(d) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

A prior section 810 of Pub. L. 89-10, title VIII, as added Pub. L. 92-318, title IV, § 421(a), June 23, 1972, 86 Stat. 339, was classified to section 887c of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3291. National leadership and planning; authorization of appropriations

(a) The Assistant Secretary shall undertake certain national leadership and planning activities in order to assist the purposes of this subchapter. Such activities include but are not limited to national leadership, including publications, convening of national conferences, and other dissemination activities to provide information of successful community education programs and activities.

(b) There are authorized to be appropriated for fiscal year 1979 and for each fiscal year ending prior to October 1, 1983, $5,000,000 to carry out the provisions of this section.

(Pub. L. 89-10, title VIII, § 811, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2289.)

PRIOR PROVISIONS

A prior section 811 of Pub. L. 89-10, title VIII, as added Pub. L. 92-318, title V, § 505(a)(3), June 23, 1972, 86 Stat. 348, was classified to section 887d of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3292. Training of community education personnel

(a) Authorization, scope, etc.

The Commissioner is authorized to make grants to institutions of higher education for the purpose of providing full-time and part-time training for personnel who are engaged in or who intend to engage in community education programs.

(b) Time, manner, and contents of application

(1) No grant may be made under the provisions of this section unless an application is made at such time, in such manner, and containing or accompanied by such information as the Commissioner may reasonably require.

(2) No grant may be entered into under the provisions of this section unless provision is made in the application for the institution of higher education to consult with appropriate State and local educational agencies.

(c) Authorization of appropriations

There are authorized to be appropriated $5,000,000 for fiscal year 1979, $10,000,000 for fiscal year 1980, $15,000,000 for fiscal year 1981, $10,000,000 for fiscal year 1982, and $5,000,000 for fiscal year 1983 to carry out the provisions of this section.

(Pub. L. 89-10, title VIII, § 812, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2290.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 405(e) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 549, which was classified to section 1864(e) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

A prior section 812 of Pub. L. 89-10, title VIII, as added Pub. L. 93-380, title I, § 110, Aug. 21, 1974, 88 Stat. 513, was classified to section 887e of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3288 of this title.

§ 3293. Research; authorization of appropriations

(a) In conjunction with the planning activities required of the Assistant Secretary for Education under section 3291 of this title, the Director of the National Institute of Education shall carry out a program of research on community education programs, from sums available under subsection (b) of this section. Such research shall include an analysis of program impact with respect to individuals and communities, the importance of parental involvement, school vandalism and violence, and the effect of non-Federal funds contributed under provisions of section 3295 of this title.

(b) There are authorized to be appropriated $1,000,000 for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of this section.

(Pub. L. 89-10, title VIII, § 813, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2290.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3294. Administration

(a) Establishment, functions, operations, etc., of clearinghouse

The Commissioner shall establish or designate a clearinghouse to gather and disseminate information received from community education programs, including but not limited to, information regarding new programs, methods to encourage community participation, methods of formulating and conducting needs assessments, and the ways of coordinating community education programs with other community services, with particular emphasis upon the coordination of delivery of community services described in section 3286(b) of this title. The Commissioner is authorized to contract with public agencies or private organizations to establish and operate the clearinghouse.

(b) Establishment, membership, functions, etc., of Community Education Advisory Council

(1) There is established, subject to part D of the General Education Provisions Act [20 U.S.C. 1233 et seq.], in the Office of the Commissioner, a Community Education Advisory Council (referred to in this section as the "Advisory Council") to be composed of eleven members. The members of the Advisory Council shall be appointed by the Secretary, without regard to political affiliation.

(2) A substantial number of the members of the Advisory Council shall be individuals experienced in the operation of community education programs and the training of such individuals. The Council shall include participants and consumers of community education programs.

(3) Appointments to the Advisory Council shall be completed within three months after November 1, 1978. Individuals serving in any predecessor Community Education Advisory Council may be appointed under this subsection.

(4) The Commissioner shall make available to the Advisory Council such staff, information, and other assistance as it may require to carry out its activities.

(5) The Advisory Council shall advise the Commissioner on policy matters relating to the interests of community schools and the community education program authorized by this subchapter.

(6) The Advisory Council shall advise the National Institute of Education with respect to the research concerning community education programs, and shall advise the Office of Education with respect to the evaluation of such programs. The Council shall present to Congress a complete and thorough assessment of the programs and operation of this section for each fiscal year.

(7) No member of the Council shall evaluate any community education program if such member is associated with that program as a consultant, technical advisor, or in any other similar capacity.

(c) Program under authority of Executive Deputy Commissioner for Educational Programs

The program authorized by this part shall be under the authority of the Executive Deputy Commissioner for Educational Programs.

(d) Authorization of appropriations

(1) There are authorized to be appropriated for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983, $500,000 to carry out the provisions of subsection (a) of this section.

(2) There are authorized to be appropriated for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, $500,000 to carry out the provisions of subsection (b) of this section.

(3) There are authorized to be appropriated for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, such sums, but not to exceed $1,000,000 in any fiscal year, as are necessary to provide for the administration of this subchapter.

(Pub. L. 89-10, title VIII, § 814, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2290.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (b)(1), is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended. Part D of the General Education Provisions Act was added as Part C of title IV by Pub. L. 91-230, title V, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166, redesignated Part D by Pub. L. 92-318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, and is classified generally to subchapter IV (§ 1233 et seq.) of chapter 31 of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 405(b) and (g) of Pub. L. 93-380, title IV, Aug.

21, 1974, 88 Stat. 549, which was classified to section 1864(f) and (g) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Termination of Advisory Councils

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3295. Federal share

(a) The Federal share of the cost of the State plan approved under section 3287 of this title shall be 80 per centum for fiscal year 1979, 70 per centum for fiscal year 1980, 50 per centum for fiscal year 1981, 30 per centum for fiscal year 1982, and 20 per centum for the fiscal year 1983.

(b) The Federal share of the cost of applications of local educational agencies approved under section 3288 of this title shall be 90 per centum for fiscal years 1979 and 1980, 80 per centum for the fiscal year 1981 and each of the two succeeding fiscal years.

(c) The Federal share of the cost of grants to nonprofit organizations under section 3289 of this title shall be 90 per centum for fiscal years 1979 and 1980, and 80 per centum for the fiscal year 1981 and for each of the two succeeding fiscal years.

(Pub. L. 89-10, title VIII, § 815, as added Pub. L. 95-561, title VIII, § 801(3), Nov. 1, 1978, 92 Stat. 2291.)

Prior Provisions

Provisions similar to this section were contained in section 405(d) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 549, which was classified to section 1864(d) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

Section Referred to in Other Sections

This section is referred to in section 3293 of this title.

SUBCHAPTER IX—ADDITIONAL PROGRAMS

Subchapter Referred to in Other Sections

This subchapter is referred to in section 3381 of this title.

Part A—Gifted and Talented Children

§ 3311. General provisions

(a) Short title

This part may be cited as the "Gifted and Talented Children's Education Act of 1978".

(b) Declaration of findings

The Congress hereby finds and declares that—

(1) the Nation's greatest resource for solving critical national problems in areas of national concern is its gifted and talented children,

(2) unless the special abilities of gifted and talented children are developed during their elementary and secondary school years, their special potentials for assisting the Nation may be lost, and

(3) gifted and talented children from economically disadvantaged families and areas often are not afforded the opportunity to fulfill their special and valuable potentials, due to inadequate or inappropriate educational services.

(c) Purpose

It is the purpose of this part to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to assist such agencies, institutions and organizations to plan, develop, operate, and improve programs designed to meet the special educational needs of gifted and talented children.

(Pub. L. 89-10, title IX, § 901, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2292.)

Prior Provisions

A prior section 901 of Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 346, was classified to section 900 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

§ 3312. Definition

For the purposes of this part, the term "gifted and talented children" means children and, whenever applicable, youth, who are identified at the preschool, elementary, or secondary level as possessing demonstrated or potential abilities that give evidence of high performance capability in areas such as intellectual, creative, specific academic, or leadership ability, or in the performing and visual arts, and who by reason thereof, require services or activities not ordinarily provided by the school.

(Pub. L. 89-10, title IX, § 902, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2292.)

Prior Provisions

A prior section 902 of Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, was classified to section 900a of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

§ 3313. Authorization of appropriations; apportionment of appropriations

(a) For the purpose of carrying out this part there are authorized to be appropriated $25,000,000 for fiscal year 1979, $30,000,000 for fiscal year 1980, $35,000,000 for fiscal year 1981, $40,000,000 for fiscal year 1982, and $50,000,000 for fiscal year 1983.

(b)(1) From the amounts appropriated under subsection (a) of this section for each fiscal year, the Commissioner shall reserve 25 per centum or $5,000,000, whichever is less, for carrying out the provisions of section 3315 of this title, relating to discretionary programs.

(2) The remainder of the sums appropriated under subsection (a) of this section for each fiscal year shall be available to carry out the provisions of section 3314 of this title, relating to State programs.

(Pub. L. 89-10, title IX, § 903, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2292.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 404(h) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 547, which was classified to section 1863(h) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

A prior section 903 of Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, was classified to section 900a-1 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3314, 3315, 3316 of this title.

§ 3314. State programs

(a) Authorization and scope of grants

From the amounts available in any fiscal year under section 3313(b)(2) of this title, the Commissioner shall make grants to State educational agencies for the Federal share of the cost of planning, developing, operating, and improving programs designed to meet the educational needs of gifted and talented children at the preschool, elementary, and secondary levels. Such programs may include inservice training of personnel to teach such children.

(b) Distribution and allotment of funds

(1) Except as provided in paragraph (2), to the extent funds are available in any fiscal year to carry out the provisions of this section, the Commissioner shall distribute funds so as to assure that each State educational agency which submits an application which fully meets all requirements of this section and is approved by the Commissioner will receive not less than $50,000 in that fiscal year. If sums appropriated for any fiscal year for making payments under this subsection are not sufficient to pay in full the amount to which each State educational agency is entitled under the previous sentence, such amounts shall be ratably reduced.

(2) In any fiscal year in which appropriations under this part equal or exceed $15,000,000, the Commissioner shall allot the amount so appropriated in accordance with the provisions of section 3316 of this title.

(c) Time, manner, and contents of application; required assurances

Each State educational agency desiring to receive a grant under this section shall submit an application at such time, in such manner and accompanied by such information as is necessary for the purposes of this section. Each such application shall contain assurances that—

(1) funds paid to the State educational agency will be expended solely to plan, develop, operate, and improve programs and projects which—

(A) are designed to identify the educational needs of gifted and talented children,

(B) are of sufficient size, scope, and quality to hold reasonable promise of making substantial progress toward meeting such needs, and

(C) give appropriate consideration to the particular educational needs of disadvantaged gifted and talented children;

(2)(A) the State educational agency will reserve from funds made available under this section in each fiscal year not more than 10 per centum of such funds for the purpose of administration, technical assistance, coordination, and statewide planning related to programs and projects designed to meet the needs of gifted and talented children;

(B) the State educational agency will distribute, on a competitive basis, not less than 90 per centum of the funds made available under this section for payments to local educational agencies within the State which apply to the State educational agency, with due regard for the quality of activities proposed in the application of the local educational agencies;

(3) the State educational agency will use at least 50 per centum of the funds made available under this section for programs and projects which include a component for the identification and education of disadvantaged gifted and talented children from low-income families;

(4) the State educational agency and the local educational agencies within the State may use funds made available under this section to acquire instructional equipment only if such equipment will enhance the program or project for which such funds are furnished;

(5)(A) the requirements of section 3086 of this title (relating to participation of pupils and teachers in private elementary and secondary schools) are met unless such requirements cannot legally be met in the State (as determined by the State educational agency);

(B) the State educational agency will not approve the application of a local educational agency within the State for assistance under this section unless the State educational agency determines that in designing the proposal subject to the application the needs of children in nonprofit private elementary and secondary schools have been taken into account through the consultation with private school officials and by other appropriate means; and

(6) the State educational agency will provide to local educational agencies within the

State, which are unable to compete due to smaller size or lack of financial resources, technical assistance in preparing proposals and in planning, developing, and operating programs under this section.

(d) Procedures applicable for approval or disapproval of application

The Commissioner shall approve any application which meets the requirements of subsection (c) of this section and not disapprove any such application without first affording an opportunity for a hearing.

(Pub. L. 89-10, title IX, § 904, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2293.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 404(c) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 547, which was classified to section 1863(c) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

A prior section 904 of Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, was classified to section 900a-2 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3313, 3316 of this title.

§ 3315. Discretionary programs

(a) Scope of grants or contracts; funding limitations

From the amounts available in any fiscal year under section 3313(b)(1) of this title the Commissioner may—

(1) make grants to State educational agencies, local educational agencies, institutions of higher education, and other public and private agencies and organizations, to assist them in establishing or maintaining programs or projects designed to meet the educational needs of gifted and talented children including the training of personnel in educating gifted and talented children or in supervising such personnel;

(2) make grants to State educational agencies to assist them, either directly or through arrangements by the State educational agencies with other institutions, agencies, and organizations eligible to receive funds under this part, to provide training of personnel engaged in the education of gifted and talented children or supervision of such personnel;

(3) enter into contracts with, and make grants to, public agencies and private organizations including State and local educational agencies, to establish and operate model projects for the identification and education of gifted and talented children;

(4) make grants to, or enter into contracts with, public agencies, private organizations, or institutions which together or singly constitute a clearinghouse to disseminate information about programs, services, resources, research, methodolgy,[1] and media materials for the education of gifted and talented children;

(5) make grants to State educational agencies to assist them in the statewide planning, development, operation, and improvement of programs and projects designed to meet the educational needs of gifted and talented children; and

(6) conduct, either directly or by grant or contract, a program of research, evaluation, and related activities pertaining to the education of gifted and talented children and may transfer to the National Institute of Education pursuant to subsection (c) of this section not more than 20 per centum of the sums available in any fiscal year to carry out the provisions of this section,

to pay the Federal share of the cost of such grants or contracts. Not more than 20 per centum of the sums available in any fiscal year under this section may be used pursuant to clause (1) of this subsection for grants to institutions of higher education for the training of national leadership personnel.

(b) Application for grant or contract; submission, form, manner, and contents; applicability to programs and projects of requirements respecting participation of pupils and teachers in private, elementary and secondary schools

(1) No grant may be made and no contract may be entered into under this section unless an application is submitted to the Commissioner in such form, in such manner, and containing such information, as is necessary for the purposes of this section.

(2) The requirements of section 3086 of this title (relating to the participation of pupils and teachers in private, elementary and secondary schools) shall apply to programs and projects under this section unless such requirements cannot legally be met in the State (as determined by the State educational agency of the State in which the applicant for funds under this section is located).

(c) Implementation of research, etc., programs by National Institute of Education; definition

(1) Notwithstanding the second sentence of section 1221e(b)(1) of this title, the National Institute of Education may, in accordance with the terms and conditions of section 1221e of this title, carry out a program of research and related activities pertaining to the education of gifted and talented children from funds transferred pursuant to subsection (a)(6) of this section.

(2) For purposes of this section the term "research, evaluation and related activities" means research, research training, evaluation, surveys, and demonstrations in the field of education of gifted and talented children and youth or the dissemination of information derived from such research, surveys or demonstrations, and all such activities, including experimental and model schools.

---

[1] So in original. Probably should be "methodology".

(Pub. L. 89-10, title IX, § 905, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2294.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 404(c) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 547, which was classified to section 1863(c) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1), Nov. 1, 1978, 92 Stat. 2228.

A prior section 905 of Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, was classified to section 900a-3 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3313, 3318 of this title.

§ 3316. State allotments; reallotments

(a)(1) In any fiscal year in which appropriations for this part are equal to or exceed $15,000,000 the Commissioner shall allot, from amounts available under section 3313(b)(2) of this title, not more than 1 per centum among—

(A) Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

(B) programs for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior; and

(C) programs authorized for children and teachers in overseas dependent schools of the Department of Defense,

in accordance with their respective needs.

(2) From the remainder of such sums in any such fiscal year, the Commissioner shall allot to each State which has an application meeting the requirements of section 3314 of this title, an amount which bears the same ratio to such remainder as the number of children in the State aged 5 to 17 years, inclusive, bears to the number of children in all States, except that no State shall receive less than $50,000 in any such fiscal year.

(3) For the purpose of this subsection the term "State" means the several States, the Commonwealth of Puerto Rico, and the District of Columbia.

(b) The amount of any State's allotment under subsection (a) of this section for any fiscal year which the Commissioner determines will not be required for such fiscal year shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) of this section for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year from funds appropriated under section 3313 of this title shall be deemed part of its allotment under subsection (a) of this section for such year.

(Pub. L. 89-10, title IX, § 906, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2295.)

PRIOR PROVISIONS

A prior section 906 of Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 348, was classified to section 900a-4 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3314 of this title.

§ 3317. Administration

(a) Designation of administrative unit within Office of Education; functions

The Commissioner shall designate an administrative unit within the Office of Education to administer the programs and projects authorized by this part and to coordinate all programs for gifted and talented children and youth administered by the Office of Education.

(b) Indian tribe operating schools for its children as local educational agency

Notwithstanding any other provision of law, any Indian tribe which operates schools for its children shall be deemed to be a local educational agency for the purposes of this part.

(c) Limitations on financial assistance; applicability

No financial assistance may be made to a local educational agency for a period in excess of 5 years. The limitation contained in this subsection shall not apply to any financial assistance extended prior to November 1, 1978.

(Pub. L. 89-10, title IX, § 907, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2296.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 404(a) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 547, which was classified to section 1863(a) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1)(C), Nov. 1, 1978, 92 Stat. 2228.

A prior section 907 of Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 348, was classified to section 900a-5 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of

Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3318. Federal share

The Federal share for any fiscal year shall be 90 per centum, except that the Federal share for the clearinghouse activities under section 3315(a)(4) of this title, the research, evaluation and related activities under section 3315(a)(6) of this title, and programs and projects involving the participation of students in for nonprofit private elementary and secondary schools shall be 100 per centum.

(Pub. L. 89-10, title IX, § 908, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2296.)

PART B—EDUCATIONAL PROFICIENCY STANDARDS

§ 3331. Grants to implement educational proficiency standards

(a) Authorization and scope

The Commissioner is authorized to make grants to any State educational agency (or to any local educational agency located in a State in which the State educational agency has not submitted an application for a grant under this section) to carry out any plan approved by the Commissioner in accordance with this section to assist students in achieving levels of educational proficiency compatible with basic standards established by such educational agency.

(b) Submission and form of, procedures applicable to, and educational proficiency plan contained in, application; contents of plan

(1) Each applicant which desires to receive a grant under this section may submit an application to the Commissioner. Any such application shall be submitted in such form, and in accordance with such procedures, as the Commissioner shall require and shall contain an educational proficiency plan, as described in paragraph (2) of this subsection.

(2) The educational proficiency plan referred to in paragraph (1) of this subsection—

(A) shall contain a description of the educational proficiency standards established by the applicant for reading, writing, mathematics, and any other subject for which the State may require such standards;

(B) shall contain a description of the programs designed to assist students in achieving levels of educational proficiency compatible with the standards described in subparagraph (A) of this paragraph;

(C) may provide for the administration of examinations to students, at specified intervals or grade levels, to measure their reading, writing, or mathematical proficiency, or their proficiency in other subjects which the applicant considers appropriate for testing; and

(D) shall contain the assurances of the applicant that any student who fails any examination provided for under subparagraph (C) of this paragraph shall be offered supplementary instruction in the subject matter covered by such examination.

(c) Criteria applicable to award of grant; use of grant

The Commissioner shall award a grant to any applicant, in such amounts as the Commissioner considers appropriate, only if (1) the Commissioner approves the educational proficiency plan submitted by the applicant pursuant to subsection (b) of this section, and (2) the application submitted pursuant to such subsection satisfies all other requirements established by the Commissioner. Grants awarded under this section may be used by applicants either to continue to implement their ongoing educational proficiency plans, or to implement new plans, including the provision of supplementary instruction to be provided to students who fail the examinations.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years.

(e) Definition

For purposes of this section, the term "applicant" means any State or local educational agency which submits an application under this section.

(f) Prohibited activities

Nothing in this section shall authorize the Commissioner to impose tests on State educational agencies or local educational agencies, and no such agency shall be compelled in any way to apply for funds under this section.

(Pub. L. 89-10, title IX, § 921, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2296.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3332. Achievement testing assistance

(a) Granting or contracting authority; scope of activities

The Commissioner is authorized, either directly or through grants or contracts awarded to State and local educational agencies and other public agencies, organizations, and institutions, and through contracts with private agencies, organizations, and institutions, to assist State and local educational agencies to develop their capacity to conduct programs of testing the achievement in the basic skills of children in elementary and secondary schools. The activities which may be supported under this section include—

(1) disseminating information to State and local educational agencies on the availability and uses of achievement tests;

(2) training of and assistance to administrators, teachers, and other instructional personnel in the use of tests and test results; and

(3) research and evaluation designed to determine improved means of assessing more ac-

curately the achievement of children in basic skills and of diagnosing instructional needs.

(b) Testing prohibitions

Nothing in this section shall authorize the Commissioner to require specific tests or test questions. Any State or local educational agency may refuse to use any test or test question developed under this section.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section for fiscal year 1980, and for each of the three succeeding fiscal years.

(Pub. L. 89-10, title IX, § 922, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2297.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

PART C—WOMEN'S EDUCATIONAL EQUITY

§ 3341. General provisions

(a) Short title

This part may be cited as the "Women's Educational Equity Act of 1978".

(b) Declaration of findings; purpose

(1) The Congress finds and declares that educational programs in the United States, as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society.

(2) It is the purpose of this part to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.].

(c) Definition

As used in this part, the term "Council" means the National Advisory Council on Women's Educational Programs.

(Pub. L. 89-10, title IX, § 931, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2298.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (b)(2), is Pub. L. 92-318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Education Amendments of 1972 is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 408(a) to (c) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 554, which was classified to section 1866(a) to (c) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1)(G), Nov. 1, 1978, 92 Stat. 2228.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3342. Granting and contracting authority; funding requirements

(a) The Commissioner is authorized to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions, including student and community groups, and individuals, for activities designed to achieve the purpose of this part at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. The activities may include—

(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

(A) the development and evaluation of curricula, textbooks, and other educational materials related to educational equity;

(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

(C) research and development activities designed to advance educational equity;

(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to insure educational equity;

(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration; and

(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed two years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.] and other special activities designed to achieve the purposes of this part.

Not less than 75 per centum of funds used to support activities covered by paragraph (2) shall be used for awards to local educational agencies.

(b) For each fiscal year, the Commissioner shall use $15,000,000 from the funds available under this part to support activities described in paragraph (1) of subsection (a) of this section. Any funds in excess of $15,000,000 available under this part shall be used to support activities described in paragraph (2) of subsection (a) of this section.

(Pub. L. 89-10, title IX, § 932, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2298.)

References in Text

The Education Amendments of 1972, referred to in subsec. (a)(2), is Pub. L. 92-318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Education Amendments of 1972 is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Prior Provisions

Provisions similar to this section were contained in section 408(d)(1) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 554, which was classified to section 1866(d)(1) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1)(G), Nov. 1, 1978, 92 Stat. 2228.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3343. Application; participation

(a) A grant may be made, and a contract may be entered into, under this part only upon application to the Commissioner, at such time, in such form, and containing or accompanied by such information as the Commissioner may prescribe. Each such application shall—

(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

(2) describe a program for carrying out one or more of the purposes set forth in section 3342(a) of this title which holds promise of making a substantial contribution toward attaining such purposes; and

(3) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application;

(b) Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

(Pub. L. 89-10, title IX, § 933, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2299.)

Prior Provisions

Provisions similar to this section were contained in section 408(d)(2), (3) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 554, which was classified to section 1866(d)(2), (3), of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1)(G), Nov. 1, 1978, 92 Stat. 2228.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3344. Small grants

In addition to the authority of the Commissioner under section 3342 of this title, the Commissioner shall carry out a program of small grants (as part of the grant program administered under section 3342(a)(1) of this title), not to exceed $25,000 each, in order to support innovative approaches to achieving the purposes of this part; and for that purpose the Commissioner is authorized to make grants to public and private nonprofit agencies and to individuals.

(Pub. L. 89-10, title IX, § 934, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2299.)

Prior Provisions

Provisions similar to this section were contained in section 408(e) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 554, which was classified to section 1866(e) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(1)(b)(G), Nov. 1, 1978, 92 Stat. 2228.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3345. Criteria and priorities

The Commissioner shall establish criteria and priorities for awards under this part to insure that available funds are used for programs that most effectively will achieve the purposes of this part. Those criteria and priorities shall be promulgated in accordance with section 1232 of this title.

(Pub. L. 89-10, title IX, § 935, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2299.)

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3346. National Advisory Council on Women's Educational Programs

(a) Establishment; composition; Chairperson

There is established in the Office of Education a National Advisory Council on Women's Educational Programs. The Council shall be composed of—

(1) seventeen individuals, some of whom shall be students, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals, broadly representative of the general public who, by virtue of their knowledge or experience, are versed in the role and status of women in American society;

(2) the staff Director of the Civil Rights Commission;

(3) the Director of the Women's Bureau of the Department of Labor; and

(4) the Director of the Women's Action Program of the Department of Health, Education, and Welfare.

The Council shall elect its own Chairperson from among the members described in paragraph (1).

(b) Terms of office of members

The term of office of each member of the Council appointed under paragraph (1) of subsection (a) of this section shall be three years, except that—

(1) the members first appointed under such clause shall serve as designated by the President, six for a term of one year, five for a term of two years, and six for a term of three years; and

(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

(c) Functions

The Council shall—

(1) advise the Secretary, Assistant Secretary, and the Commissioner on matters relating to equal educational opportunities for women and policy matters relating to the administration of this part;

(2) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to this part, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(3) recommend criteria for the establishment of program priorities;

(4) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

(5) disseminate information concerning the activities of the Council under this part.

(d) Applicability of other Federal statutory provisions

The provisions of part D of the General Education Provisions Act [20 U.S.C. 1233 et seq.] shall apply with respect to the Council established under this subsection.

(Pub. L. 89-10, title IX, § 936, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2300.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (d), is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended. Part D of the General Education Provisions Act is classified generally to subchapter IV (§ 1233 et seq.) of chapter 31 of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 408(f) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 554, which was classified to section 1866(f) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1)(G), Nov. 1, 1978, 92 Stat. 2228.

CHANGE OF NAME

The Department of Health, Education, and Welfare was redesignated the Department of Health and Human Services by section 3508 of Title 20, Education.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3347. Reports

The Commissioner is directed, not later than September 30, 1980, 1982, and 1984, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this part, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this part. After receiving the report from the Commissioner, the Council shall evaluate the program and projects assisted under this part and include such evaluation in its annual report.

(Pub. L. 89-10, title IX, § 937, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2300.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 408(g) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 554, which was classified to section 1866(g) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1)(G), Nov. 1, 1978, 92 Stat. 2228.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3348. Authorization of appropriations

For the purpose of carrying out this part there are authorized to be appropriated $80,000,000 for fiscal year 1980, and each of the three succeeding fiscal years.

(Pub. L. 89-10, title IX, § 938, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2301.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 408(h) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 554, which was classified to section 1866(h) of this title prior to the repeal of that section by Pub. L. 95-561, title III, § 301(b)(1)(G), Nov. 1, 1978, 92 Stat. 2228.

PART D—SPECIAL GRANTS FOR SAFE SCHOOLS

§ 3351. Purpose

The purpose of this part is to provide financial assistance to aid local educational agencies throughout the Nation to meet special needs incident to providing security for children, employees, and facilities in elementary and secondary schools by reducing and preventing crimes against them and to encourage the reporting of serious crimes committed in schools to local law enforcement agencies.

(Pub. L. 89-10, title IX, § 941, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2301.)

§ 3352. Authorization of appropriations

There is authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1979, and such sums as may be necessary for each of the four succeeding fiscal years to carry out this part.

(Pub. L. 89-10, title IX, § 942, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2301.)

§ 3353. Allotments to local educational agencies; criteria

(a) Within one hundred and eighty days after November 1, 1978, the Commissioner shall select 15 local educational agencies for funding under this section. The Commissioner is to take into full account geographical considerations in the determination of the 15 agencies.

(b) The sums appropriated to carry out this part for a fiscal year shall be allotted by the Commissioner among the local educational agencies identified pursuant to subsection (a) of this section in a manner which gives consideration to the following criteria in the following order:

(1) The extent and impact upon elementary and secondary education of crime in the schools of the district to be served, including the reported incidences of such crime in the school.

(2) Districts which have ongoing programs aimed at promoting school safety, but nothing in this paragraph shall be construed to mean that funds made available under this part will be used to substitute for local funds in such programs, but rather be used to expand such programs.

(3) The financial need of such local educational agency.

(4) The expense and difficulty of effectively carrying out a plan described in section 3354(a) of this title in such school district.

(5) The degree to which measurable deficiencies in the quality of public education afforded in such district exceed those of other school districts within the State.

(6) The degree to which the plan described in section 3354(a) of this title, and the program or project to be assisted, are likely to effect a decrease in crime in the schools.

(7) The degree to which a local educational agency has developed administrative guidelines encouraging the reporting to local law enforcement agencies of all serious crimes committed in schools under their jurisdiction.

(8) The degree to which employees of the local educational agency report serious crimes committed in schools to local law enforcement agencies.

(Pub. L. 89-10, title IX, § 943, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2301.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3354. Application

(a) Submission as prerequisite for grant; adoption and implementation of plan in conjunction with application; scope of plan

A local educational agency may receive a grant under this part for any fiscal year only upon application therefor approved by the Commissioner, with the consent of the appropriate State educational agency, upon the Commissioner's determination that the local educational agency has adopted and is implementing, or will, if assistance is made available under this part, adopt and implement, a plan to reduce crime and increase the safety and security of the students, employees, and facilities of its elementary and secondary schools through programs and projects designed to carry out the purpose of this part, including—

(1) the provision of additional professional or other staff members (including staff members especially trained in problems incident to crime control) and the training and retraining of staff for schools which are affected by such a plan;

(2) provision of information to parents and other members of the general public incident to the development or to the implementation of such plan;

(3) the adoption of administrative guidelines so that school officials and staff are encouraged to report all serious crimes occurring in school or in school buildings to local law enforcement agencies;

(4) planning and evaluation activities;

(5) other specially designed programs or projects that meet the purpose of this part;[1]

(b) Use of funds; limitations

Funds may also be used for minor alteration of school plants and facilities, including the acquisition, installation, modernization, or replacement of equipment to reduce the susceptibility of the facility to crimes or vandalism. No more than 10 percent of the funds under any plan shall be used for this purpose.

(c) Regulations

The Commissioner shall promulgate such regulations as may be necessary to provide for the suspension of funding under this part to any local educational agency which the Commissioner determines has not complied with the requirements of subsection (a)(3) of this section.

---

[1] So in original. The semicolon probably should be a period.

(d) Consultation requirements

The Commissioner shall consult with the Associate Administrator of the Office of Juvenile Justice and Delinquency Prevention for the purpose of coordinating programs and activities funded under this section with those related programs funded under the Juvenile Justice Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.].

(Pub. L. 89-10, title IX, § 944, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2302.)

REFERENCES IN TEXT

The Juvenile Justice Delinquency Prevention Act of 1974, referred to in subsec. (d), probably means the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§ 5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3353 of this title.

PART E—ETHNIC HERITAGE PROGRAM

§ 3361. Statement of policy

In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all persons in the educational institutions of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this part to provide assistance designed to afford to students opportunities to learn about the nature of their own cultural heritage, and to study the contributions of the cultural heritages of the other ethnic groups of the Nation.

(Pub. L. 89-10, title IX, § 951, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2303.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 901 of Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 346, which was classified to section 900 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

§ 3362. Ethnic heritage studies programs

The Commissioner is authorized to make grants to, and contracts with, public and private nonprofit educational agencies, institutions, and organizations to assist them in planning, developing, establishing, and operating ethnic heritage studies programs, as provided in this part.

(Pub. L. 89-10, title IX, § 952, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2303.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 902 of Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, which was classified to section 900a of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3363. Authorized activities

Each program assisted under this part shall—

(1)(A) develop curriculum materials for use in elementary or secondary schools or institutions of higher education relating to the history, geography, society, economy, literature, art, music, drama, language, and general culture of the group or groups with which the program is concerned, and the contributions of that ethnic group or groups to the American heritage; or

(B) disseminate curriculum materials to permit their use in elementary or secondary schools or institutions of higher education throughout the Nation; or

(C) provide training for persons using, or preparing to use, curriculum materials developed under this part; and

(2) cooperate with persons and organizations with a special interest in the ethnic group or groups with which the program is concerned to assist them in promoting, encouraging, developing, or producing programs or other activities which relate to the history, culture, or traditions of that ethnic group or groups.

(Pub. L. 89-10, title IX, § 953, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2303.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 903 of Pub. L. 89-10, title IX, as added 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, which was classified to section 900a-1 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3364 of this title.

§ 3364. Applications; criteria for approval

(a) Any public or private nonprofit agency, institution, or organization desiring assistance under this part shall make application therefor in accordance with the provisions of this part and other applicable law and with regulations of the Commissioner promulgated for the purposes of this part. The Commissioner shall approve an application under this part only if he determines that—

(1) the program for which the application seeks assistance will be operated by the applicant and that the applicant will carry out such program in accordance with this part;

(2) such program will involve the activities described in section 3363 of this title; and

(3) such program has been planned, and will be carried out, in consultation with an advisory council which is representative of the ethnic group or groups with which the program is concerned and which is appointed in a manner prescribed by regulation.

(b) In approving applications under this part, the Commissioner shall ensure that there is cooperation and coordination of efforts among the programs assisted under this part, including the exchange of materials and information and joint programs where appropriate.

(Pub. L. 89-10, title IX, § 954, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2303.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 904 of Pub. L. 89-10; title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, which was classified to section 900a-2 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3365. Administrative provisions; funding

(a) In carrying out this part, the Commissioner shall make arrangements which will utilize (1) the research facilities and personnel of institutions of higher education, (2) the special knowledge of ethnic groups in local communities and of foreign students pursuing their education in this country, (3) the expertise of teachers in elementary and secondary schools and institutions of higher education, and (4) the talents and experience of any other groups such as foundations, civic groups, and fraternal organizations which would further the goals of the programs.

(b) Funds appropriated to carry out this part may be used to cover all or part of the cost of establishing and carrying out the programs, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purposes of carrying out the purposes of this part. Such funds may also be used to provide stipends (in such amounts as may be determined in accordance with regulations of the Commissioner) to individuals receiving training as part of such programs, including allowances for dependents.

(Pub. L. 89-10, title IX, § 955, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2304.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 905 of Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 347, which was classified to section 900a-3 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3366. National Advisory Council on Ethnic Heritage Studies; establishment, functions, etc.

(a) There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appointed by the Secretary who shall be appointed, serve, and be compensated as provided in part D of the General Education Provisions Act [20 U.S.C. 1233 et seq.].

(b) Such Council shall, with respect to the program authorized by this part, carry out the duties and functions specified in part D of the General Education Provisions Act [20 U.S.C. 1233 et seq.].

(Pub. L. 89-10, title IX, § 956, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2304.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in text, is Pub. L. 90-247, title IV, Jan. 2, 1968, 81 Stat. 814, as amended. Part D of the General Education Provisions Act is classified generally to subchapter IV (§ 1233 et seq.) of chapter 31 of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 906 of Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 348, which was classified to section 900a-4 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(4) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3367. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated

$15,000,000 for each of the fiscal years ending prior to October 1, 1983. Sums appropriated pursuant to this section shall, notwithstanding any other provision of law unless enacted in express limitation of this sentence, remain available for expenditure and obligation until the end of the fiscal year succeeding the fiscal year for which they were appropriated.

(Pub. L. 89-10, title IX, § 957, as added Pub. L. 95-561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2304.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 907 of Pub. L. 89-10, title IX, as added Pub. L. 92-318, title V, § 504(a), June 23, 1972, 86 Stat. 348, which was classified to section 900a-5 of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 95-561.

SUBCHAPTER X—GENERAL PROVISIONS

§ 3381. Definitions

As used in subchapters II, III, IV, V, VI, VII, VIII, and IX of this chapter, except when otherwise specified—

(a) The term "Commissioner" means the Commissioner of Education.

(b) The term "construction" means (1) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (2) acquisition of existing structures not owned by any agency or institution making application for assistance under this chapter; or (3) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (4) a combination of any two or more of the foregoing.

(c) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(d) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(e) The term "institution of higher education" means an educational institution in any State which—

(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) is legally authorized within such State to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this subsection or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however,* That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this chapter and shall also determine whether particular institutions meet such standards. For the purposes of this subsection the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

(f) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(g) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(h) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(i) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(j) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands, and for purposes of subchapters II, III, IV, V, VI, VII, VIII, and IX of this chapter such term also includes the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(k) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(Pub. L. 89-10, title X, § 1001, formerly title VI, § 601, Apr. 11, 1965, 79 Stat. 55, renumbered title VII, § 701, Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1204, renumbered title VIII, § 801, and amended Pub. L. 90-247, title I, §§ 142(b), 152(c), title VII, §§ 702, 703, Jan. 2, 1968, 81 Stat. 799, 803, 816, 819; Pub. L. 91-230, title I, § 162, Apr. 13, 1970, 84 Stat. 152; Pub. L. 94-193, § 1(c), Dec. 31, 1975, 89 Stat. 1102; Pub. L. 94-482, title V, § 501(*l*), Oct. 12, 1976, 90 Stat. 2237, renumbered title IX, § 1001 and amended Pub. L. 95-561, title VIII, § 801(1), (2), title IX, § 901(a), Nov. 1, 1978, 92 Stat. 2284, 2305; renumbered title X, § 1001, Pub. L. 96-46, § 2(a)(1), Aug. 6, 1979, 93 Stat. 340.)

Codification

Section was formerly classified to section 881 of this title prior to its renumbering by Pub. L. 95-561.

Amendments

1978—Pub. L. 95-561, § 901(a)(1), substituted reference to titles II, III, IV, V, VI, VII, VIII, and IX of this Act, which translates for purposes of codification as "subchapters II, III, IV, V, VI, VII, VIII, and IX of this chapter", for reference to titles II, III, IV, V, VI, and VII of this Act in the provisions preceding subsec. (a).

Subsec. (j). Pub. L. 95-561, § 901(a)(2), substituted reference to titles II, III, IV, V, VI, VII, VIII, and IX of this Act, which translates for purposes of codification as "subchapters II, III, IV, V, VI, VII, VIII, and IX of this chapter", for reference to titles II, III, IV, V, VI, and VII of this Act, and added reference to the Northern Mariana Islands.

Subsec. (*l*). Pub. L. 95-561, § 901(a)(3), struck out subsec. (*l*), which defined the term "gifted and talented children".

1976—Subsec. (j). Pub. L. 94-482 substituted "subchapters I, II, III, IV, and IV-A of this chapter and subchapter I of chapter 40 of this title" for "subchapters I, II, III, IV, IV-A of this chapter".

1975—In the provision preceding subsec. (a), Pub. L. 94-193 substituted "As used in subchapters I, II, III, IV, and IV-A of this chapter and subchapter I of chapter 40 of this title" for "As used in subchapters I, II, III, IV, IV-A of this chapter".

1970—Subsec. (*l*). Pub. L. 91-230 added subsec. (*l*).

1968—In provision preceding subsec. (a), Pub. L. 90-247, §§ 142(b)(2), 152(c)(1), 703(a) substituted "As used in subchapters I, II, III, IV, IV-A of this chapter, except as otherwise specified" for "As used in subchapters I, II, and III of this chapter".

Subsec. (j). Pub. L. 90-247, §§ 142(b)(1), 152(c)(2), 703(b), substituted ", and for purposes of subchapters I, II, III, IV, and IV-A of this chapter such term also includes the Trust Territory of the Pacific Islands" for "and for purposes of subchapters I and II of this chapter, such term includes the Trust Territory of the Pacific Islands".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94-482, set out as an Effective Date of 1976 Amendment note under section 1001 of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1202, 1720, 2614 of this title; title 29 section 802.

§ 3382. Federal administration

In administering the provisions of this Act and any Act amended by this Act, the Commissioner shall consult with other Federal departments and agencies administering programs which may be effectively coordinated with programs carried out pursuant to such Acts, and to the extent practicable for the purposes of such Acts shall coordinate such programs on the Federal level with the programs being administered. Federal departments and agencies administering programs which may be effectively coordinated with programs carried out under this Act or any Act amended by this Act, including community action programs carried out under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.], shall, to the fullest extent permitted by other applicable law, carry out such programs in such a manner as to assist in carrying out, and to make more effective, the programs under this Act or any Act amended by this Act.

(Pub. L. 89-10, title X, § 1002, formerly title VI, § 603, Apr. 11, 1965, 79 Stat. 57, renumbered title VII, § 703, and amended Pub. L. 89-750, title I, §§ 111(f), 161, Nov. 3, 1966, 80 Stat. 1196, 1204, renumbered title VIII, § 803, Pub. L. 90-247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, and amended Pub. L. 91-230, title I, § 163, title IV, § 401(c)(2), Apr. 13, 1970, 84 Stat. 152, 173, renumbered title IX, § 1002, Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, renumbered title X, § 1002, Pub. L. 96-46, § 2(a)(1), Aug. 6, 1979, 93 Stat. 340.)

References in Text

This Act, referred to in text, is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152, known as the Elementary and Secondary Education Act of 1965, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Economic Opportunity Act of 1964, referred to in text, is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title II of the Economic Opportunity Act of 1964, is classified generally to subchapter II (§ 2781 et seq.) of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 42 and Tables.

CODIFICATION

Section was formerly classified to section 883 of this title prior to its renumbering by Pub. L. 95-561.

AMENDMENTS

1970—Subsecs. (a), (b). Pub. L. 91-230, § 401(c)(2), repealed subsec. (a) relating to delegation of functions by Commissioner and subsec. (b) relating to utilization of services and facilities of other agencies and payment for services in advance or by way of reimbursement.

Subsec. (c). Pub. L. 91-230, § 163, inserted coordination requirement that Federal departments and agencies carry out programs, to extent permitted by other applicable law, in such manner as to assist in carrying out, and to make more effective, programs under Pub. L. 89-10 or any Act amended by Pub. L. 89-10, including community action programs under title II of the Economic Opportunity Act of 1964, and deleted item (1) designation from provision that Commissioner coordinate programs on the Federal level with programs being administered by other Federal departments and agencies, and item (2) that Commissioner require that effective procedures be adopted by State and local authorities to coordinate development and operation of programs and projects carried out under Pub. L. 89-10 and any Act amended by Pub. L. 89-10 with other public and private programs having same or similar purpose, including community action programs under title II of the Economic Opportunity Act of 1964.

1966—Subsec. (c). Pub. L. 89-750, § 111(f), added subsec. (c).

EFFECTIVE DATE

Section effective with respect to fiscal years beginning after June 30, 1966, except where specifically provided otherwise, see section 191 of Pub. L. 89-750, set out as an Effective Date of 1966 Amendment note under section 2000d-5 of Title 42, The Public Health and Welfare.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3383. Waiver of requirements for certain jurisdictions

(a) Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands

(1) If the Commissioner determines that compliance with any of the requirements of this chapter by Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands is impractical or inappropriate because of conditions or circumstances particular to any of such jurisdictions, he may waive any of those requirements upon the request of the State educational agency for such jurisdiction. At least thirty days prior to approving any such request for a waiver, the Commissioner shall publish in the Federal Register a notice of his intent to grant such a waiver and the terms and conditions upon which such a waiver will be granted.

(2) Any waiver of requirements under this subsection shall be subject to such terms and conditions as the Commissioner deems necessary to carry out the purposes of this chapter, including the submission by the jurisdiction concerned of a plan for the management of the funds provided under this chapter in order to insure that those funds are used in a manner designed to achieve the purposes of this chapter.

(b) Puerto Rico

(1) If the Commissioner determines that compliance with any of the requirements of subchapter I of this chapter by Puerto Rico is impractical or inappropriate because of conditions or circumstances particular to that jurisdiction, he may waive any of those requirements upon the request of the State educational agency for that jurisdiction. At least thirty days prior to approving any such request for a waiver, the Commissioner shall publish in the Federal Register a notice of his intent to grant such waiver and the terms and conditions upon which such a waiver will be granted.

(2) Any waiver of requirements under this subsection shall be subject to such terms and conditions as the Commissioner deems necessary to carry out the purposes of subchapter I of this chapter, including the submission by Puerto Rico of a plan for the management of the funds provided under such subchapter, in order to insure that those funds are used in a manner designed to achieve the purposes of such subchapter.

(3) No waiver may be granted under this subsection after July 1, 1980, or apply to any period after such date.

(Pub. L. 89-10, title X, § 1003, formerly title VIII, § 804, as added Pub. L. 93-380, title I, § 106, Aug. 21, 1974, 88 Stat. 512, and renumbered title IX, § 1003, and amended Pub. L. 95-561, title VIII, § 801(1), (2), title IX, § 901(b), Nov. 1, 1978, 92 Stat. 2284, 2305, as amended Pub. L. 96-46, §§ 1(20), 2(a)(3), Aug. 6, 1979, 93 Stat. 339, 340; renumbered title X, § 1003, Pub. L. 96-46, § 2(a)(1), Aug. 6, 1979, 93 Stat. 340.)

CODIFICATION

Section was formerly classified to section 884 of this title prior to its renumbering by Pub. L. 95-561.

PRIOR PROVISIONS

A prior section 804 of Pub. L. 89-10, title VIII, formerly title VI, § 604, Apr. 11, 1965, 79 Stat. 57, renumbered title VII, § 704, and amended Pub. L. 89-750, title I, §§ 161, 181, Nov. 3, 1966, 80 Stat. 1204, 1209, renumbered title VIII, § 804, Pub. L. 90-247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, prohibited Federal control of education (curriculum, program of instruction, administration, personnel of any educational institution or system, selection of library resources, textbooks, or other printed or published instructional material, and assignment or transportation of students or teachers in order to overcome racial imbalance), was repealed by Pub. L. 91-230, title IV, § 401(f)(5), Apr. 13, 1970, 84 Stat. 173, and is now covered by section 1232a of this title.

AMENDMENTS

1978—Pub. L. 95-561, § 901(b), as amended by Pub. L. 96-46, §§ 1(20), 2(a)(3), substituted provisions relating to the waiver of requirements with regard to certain jurisdictions for provisions that provided limitations on refund of payments. See Codification note above.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93-380, set out as an Effective Date of 1974 Amendment note under section 244 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3384. Prohibition against use of funds for religious worship or instruction

Nothing contained in this chapter shall be construed to authorize the making of any payment under this chapter, or under any Act, amended by this chapter, for religious worship or instruction.

(Pub. L. 89-10, title X, § 1004, formerly title VI, § 605, Apr. 11, 1965, 79 Stat. 58, renumbered title VII, § 705, Pub. L. 89-750, title I, § 161, Nov. 3, 1966, 80 Stat. 1204, renumbered title VIII, § 805, Pub. L. 90-247, title VII, § 702, Jan. 2, 1968, 81 Stat. 816, renumbered title IX, § 1004, Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, renumbered title X, § 1004, Pub. L. 96-46, § 2(a)(1), Aug. 6, 1979, 93 Stat. 340.)

CODIFICATION

Section was formerly classified to section 885 of this title prior to its renumbering by Pub. L. 95-561.

Section 901(b) of Pub. L. 95-561 originally purported to amend this section. Pub. L. 96-46 amended section 901(b) to direct the amendment of section 3383 of this title in lieu of this section.

§ 3385. Improvement of educational opportunities for Indian students

(a) Special programs and projects; inservice programs; dissemination of information and materials; evaluation

The Commissioner shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b) of this section, which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

(2) to assist in the establishment and operation of programs, in accordance with subsection (c) of this section, which are designed to stimulate (A) the provision of educational services not available to Indian children in sufficient quantity or quality, and (B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d) of this section, for persons serving Indian children as educational personnel; and

(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

In the case of activities of the type described in clause (3) preference shall be given to the training of Indians.

(b) Planning, pilot, and demonstration projects

The Commissioner is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, Indian organizations, and Indian institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

(1) innovative programs related to the educational needs of educationally deprived children;

(2) bilingual and bicultural educational programs and projects;

(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

(4) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

(c) Educational enrichment programs and services

The Commissioner is also authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Grants may be used—

(1) to provide educational services not available to such children in sufficient quantity or quality, including—

(A) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(B) comprehensive academic and vocational instruction;

(C) instructional materials (such as library books, textbooks, and other printed or published or audiovisual materials) and equipment;

(D) comprehensive guidance, counseling, and testing services;

(E) special education programs for handicapped and gifted and talented Indian children;

(F) early childhood programs, including kindergarten;

(G) bilingual and bicultural education programs; and

(H) other services which meet the purposes of this subsection; and

(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

(d) Education personnel; preference to be given to training of Indians

The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

(1) to prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(2) to improve the qualifications of such persons who are serving Indian students in such capacities.

Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences. In carrying out the programs authorized by this subsection, preference shall be given to the training of Indians.

(e) Program evaluation; technical assistance; information dissemination; programs, services, and resources available to Indian children

(1) The Commissioner is also authorized to make grants to and contracts with public agencies, State educational agencies in States in which more than five thousand Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, Indian organizations, or to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

(A) evaluate programs assisted under this section, under the Indian Elementary and Secondary School Assistance Act [20 U.S.C. 241aa et seq.], under section 1211a of this title, and other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and to conduct research to determine those needs;

(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 305(b)(2)(B)(ii) of the Indian Elementary and Secondary School Assistance Act [20 U.S.C. 241dd(b)(2)(B)(ii)] in evaluating and carrying out programs assisted under this section, under such Act, and under section 1211a of this title through the provision of materials and personnel resources; and

(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children including information on successful models and programs designed to meet the special educational needs of Indian children.

(2) Grants or contracts made pursuant to this subsection may be made for a term not to exceed three years (renewable at the end of that period subject to the approval of the Commissioner) provided that provision is made to insure annual review of the projects.

(3) From the funds appropriated pursuant to subsection (g)(1) of this section, the Commissioner is also authorized to make grants to and contracts with Indian tribes, Indian institutions, and Indian organizations, and public agencies and institutions for—

(A) the national dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

(B) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

(f) Applications for grants; time of submission; information; parental participation; funds to be used to supplement, not supplant, funds from other sources

(1) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

(A) set forth a statement describing the activities for which assistance is sought;

(B) in the case of an application for the purposes of subsection (c) of this section, subject to such criteria as the Commissioner shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

(C) in the case of an application for the purposes of subsection (c) of this section, make adequate provision for the training of the personnel participating in the project; and

(D) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (b) or (c) of this section unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under this section, the Commissioner shall give priority to applications from Indian educational Agencies, organizations, and institutions. The Commissioner shall not approve an application for a grant under subsection (b), (c), or (d) of this section unless he is satisfied that such an application, to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, makes provision for the participation of such children on an equitable basis.

(2) The Commissioner shall not approve an application for a grant under subsection (e) of this section unless he is satisfied that the funds made available under that subsection will be so used as to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds under this subsection, be made available by the State or local educational agency for the activities described in this subsection, and in no case will be used so as to supplant those funds.

(g) Authorization of appropriations

(1) For the purpose of making grants under this section there are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and $35,000,000 for each of the succeeding fiscal year ending prior to October 1, 1983.

(2) For the purpose of making grants under subsection (e) of this section there are hereby authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1983. The sum of the grants made to State educational agencies under subsection (e) of this section shall not exceed 15 per centum in any fiscal year of the sums appropriated for that year.

(Pub. L. 89-10, title X, § 1005, formerly title VIII, § 810, as added Pub. L. 92-318, title IV, § 421(a), June 23, 1972, 86 Stat. 339, amended Pub. L. 93-380, title VI, §§ 631(a), 632(a), Aug. 21, 1974, 88 Stat. 585, 586, and renumbered title IX, § 1005, and amended Pub. L. 95-561, title VIII, § 801(1), (2), title XI, §§ 1141(a), 1150(a)-(e), Nov. 1, 1978, 92 Stat. 2284, 2328, 2331-2333, renumbered title X, § 1005, and amended Pub. L. 96-46, §§ 1(21), 2(a)(1), Aug. 6, 1979, 93 Stat. 339, 340.)

References in Text

The Indian Elementary and Secondary School Assistance Act, referred to in subsec. (e)(1)(A), is title III of act Sept. 30, 1950, ch. 1124, as added by Pub. L. 92-318, title IV, § 411(a), June 23, 1972, 86 Stat. 335, as amended, which is classified generally to subchapter III (§ 241aa et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 241aa of this title and Tables.

Codification

References in subsec. (e)(1)(A) and (B) of the original to programs assisted "under this part" have been translated as references to programs assisted "under this section" as the probable intent of Congress.

Section was formerly classified to section 887c of this title prior to its renumbering by Pub. L. 95-561.

Amendments

1979—Subsec. (e)(3). Pub. L. 96-46, § 1(21), added par. (3).

1978—Subsec. (b). Pub. L. 95-561, § 1150(c)(2), substituted "Indian tribes, Indian organizations, and Indian institutions" for "Indian tribes, organizations, and institutions".

Subsec. (c)(1)(E). Pub. L. 95-561, § 1150(a), added "and gifted and talented Indian children" following "handicapped".

Subsec. (c)(1)(F). Pub. L. 95-561, § 1150(b)(1), substituted "early childhood programs, including kindergarten" for "preschool programs".

Subsec. (d)(1). Pub. L. 95-561, § 1150(b)(2)(A)(i), (ii), substituted "students" for "children" and added "administrators," following "teachers,".

Subsec. (d)(2). Pub. L. 95-561, § 1150(b)(2)(A)(i), substituted "students" for "children".

Subsec. (e). Pub. L. 95-561, § 1150(c)(1), expanded provisions to include grants to and contracts with Indian institutions, Indian organizations, and private institutions and organizations, to include the establishment of information centers on a regional basis, and to provide for additional evaluation, technical assistance, and information dissemination programs, and added a renewable three-year limit on grants or contracts.

Subsec. (f). Pub. L. 95-561, § 1150(d), designated existing provisions as par. (1) and existing pars. (1), (2), (3), and (4) as subpars. (A), (B), (C), and (D) thereof, and added par. (2).

Subsec. (g). Pub. L. 95-561, §§ 1141(a), 1150(e), substituted "October 1, 1983" for "July 1, 1978", designated existing provisions as thus amended as par. (1), and added par. (2).

1974—Subsec. (f). Pub. L. 93-380, § 632(a), inserted prohibition against approval of applications for subsec. (b) through (d) grants unless such applications, to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, make provision for participation of such children on an equitable basis.

Subsec. (g). Pub. L. 93-380, § 631(a), substituted "succeeding fiscal years ending prior to July 1, 1978" for "two succeeding fiscal years".

Effective Date of 1979 Amendment

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as an Effective Date of 1979 Amendment note under section 2701 of this title.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

Effective Date of 1974 Amendment

Pub. L. 93-380, § 631(c), provided that: "The amendments made by this section [to section 241bb(a)(1) of this title and subsec. (g) of this section] shall be effective on and after July 1, 1973."

Amendment of subsec. (f) by Pub. L. 93-380 effective on and after July 1, 1974, see section 632(d) of Pub. L. 93-380, set out as an Effective Date note under section 3385a of this title.

Transfer of Functions

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1221f, 1221g of this title.

§ 3385a. Special educational training programs for teachers of Indian people

(a) Grants and contracts for special programs and projects: priority to Indian entities; fellowships and traineeships: preference to Indians; education allowance grants and contracts

The Commissioner is authorized to make grants to and enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian people and to provide in-service training for persons teaching in such programs. Priority shall be given to Indian institutions and organizations. In carrying out his responsibilities under this section, the Commissioner is authorized to award fellowships and traineeships to individuals and to make grants to and to enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for cost of education allowances. In awarding fellowships and traineeships under this section, the Commissioner shall give preference to Indians.

(b) Stipends and allowances to recipients of traineeships and fellowships

In the case of traineeships and fellowships, the Commissioner is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

(c) Authorization of appropriations

There is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975, and for each of the succeeding fiscal years ending prior to October 1, 1983, to carry out the provisions of this section.

(Pub. L. 92-318, title IV, § 422, as added Pub. L. 93-380, title VI, § 632(c), Aug. 21, 1974, 88 Stat. 586, and amended Pub. L. 95-561, title XI, §§ 1141(c)(1), 1152(a), Nov. 1, 1978, 92 Stat. 2329, 2333.)

CODIFICATION

Section was enacted as a part of the Indian Education Act and the Education Amendments of 1974, and not as a part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

Section was formerly classified to section 887c-1 of this title.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561, § 1152(a), substituted "special educational needs of Indian people" for "special educational needs of Indian children".

Subsec. (c). Pub. L. 95-561, § 1141(c)(1), substituted "each of the succeeding fiscal years ending prior to October 1, 1983" for "each of the three succeeding fiscal years".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

EFFECTIVE DATE

Pub. L. 93-380, § 632(d), provided that: "The amendments made by this section [enacting this section and section 3385b of this title, and amending sections 241bb and 887c of this title] shall be effective on and after July 1, 1974."

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3385b. Fellowships for Indian students

(a) Number for each fiscal year; graduate and professional program studies; academic year limitations; award of vacated fellowships for remainder of period

During the fiscal year ending June 30, 1975, and each of the succeeding fiscal years ending prior to October 1, 1983, the Commissioner is authorized to award not to exceed two hundred fellowships to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not more than four academic years leading toward a postbaccalaureate degree in medicine, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields. In addition to the fellowships authorized to be awarded in the first sentence of this subsection, the Commissioner is authorized to award a number of fellowships equal to the number previously awarded during any fiscal year under this subsection but vacated prior to the end of the period during which they were awarded, except that each fellowship so awarded shall be only for a period of study not in excess of the remainder of the period of time for which the fellowship it replaces was awarded, as the Commissioner may determine.

(b) Stipends and allowances to recipients of fellowships

The Commissioner shall pay to persons awarded fellowships under this section such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) Payments in lieu of tuition for holders of fellowships

The Commissioner shall pay to the institution of higher education at which the holder of a fellowship under this section is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Commissioner may determine to cover the cost of education for the holder of such a fellowship.

(Pub. L. 92-318, title IV, § 423, as added Pub. L. 93-380, title VI, § 632(c), Aug. 21, 1974, 88 Stat. 586, and amended Pub. L. 95-561, title XI, §§ 1141(c)(2), 1152(b), Nov. 1, 1978, 92 Stat. 2329, 2333.)

CODIFICATION

Section was enacted as a part of the Indian Education Act and the Education Amendments of 1974, and not as a part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

Section was formerly classified to section 887c-2 of this title.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-561 substituted "each of the succeeding fiscal years ending prior to October 1, 1983" for "each of the three succeeding fiscal years" and "course of study of not more than four academic years leading toward a postbaccalaureate degree in medicine, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields" for "course of study of not less than three, nor more than four, academic years leading toward a professional or graduate degree in engineering, medicine, law, business, forestry and related fields".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530 of Pub. L. 95-561, set out as an Effective Date note under section 2701 of this title.

EFFECTIVE DATE

Section effective on and after July 1, 1974, see section 632(d) of Pub. L. 93-380, set out as an Effective Date note under section 3385a of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

§ 3386. Open meetings of educational agencies

No application for assistance under this chapter may be considered unless the local educational agency making such application certifies to the Commissioner that members of the public have been afforded the opportunity upon reasonable notice to testify or otherwise comment regarding the subject matter of the application. The Commissioner is authorized and directed to establish such regulations as necessary to implement this section.

(Pub. L. 89-10, title X, § 1006, formerly title VIII, § 812, as added Pub. L. 93-380, title I, § 110, Aug. 21, 1974, 88 Stat. 513, and renumbered title IX, § 1006, Pub. L. 95-561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, renumbered title X, § 1006, Pub. L. 96-46, § 2(a)(1), Aug. 6, 1979, 93 Stat. 340.)

CODIFICATION

Section was formerly classified to section 887e of this title prior to its renumbering by Pub. L. 95-561.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93-380, set out as an Effective Date of 1974 Amendment note under section 244 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of this title.

CHAPTER 48—DEPARTMENT OF EDUCATION [NEW]

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
3401. Congressional findings.
3402. Declaration of purpose.
3403. Relationship with States.
  (a) Rights of local governments and educational institutions.
  (b) Curriculum, administration, and personnel; library resources.
  (c) Funding under pre-existing programs.
3404. Definitions.

SUBCHAPTER II—ESTABLISHMENT OF THE DEPARTMENT

3411. Establishment of Department; appointment of Secretary.
3412. Principal officers.
  (a) Under Secretary of Education.
  (b) Assistant Secretaries and General Counsel.
  (c) Inspector General.
  (d) Additional officers.
  (e) Administrator of Education for Overseas Dependents.
  (f) Statements of functions of nominees.
  (g) Supervision by Secretary.
3413. Office for Civil Rights.
  (a) Establishment; administration; delegation of functions.
  (b) Compliance and enforcement reports; copies submitted to Secretary.
  (c) Authority of Assistant Secretary.
3414. Office of Elementary and Secondary Education.
3415. Office of Postsecondary Education.
3416. Office of Vocational and Adult Education.
3417. Office of Special Education and Rehabilitative Services.
3418. Office of Education for Overseas Dependents.
3419. Office of Educational Research and Improvement.
3420. Office of Bilingual Education and Minority Languages Affairs.
3421. Office of General Counsel.
3422. Office of Inspector General.
3423. Intergovernmental Advisory Council on Education.
  (a) Establishment and function.
  (b) Purposes; compliance and enforcement and regulatory reports.
  (c) Membership; term of office.
  (d) Appointment of Executive Director; staff, facilities and services.
3424. Federal Interagency Committee on Education.
  (a) Establishment and function.
  (b) Coordination of Federal programs, policies and practices.
  (c) Membership.
  (d) Designation of additional persons to attend meetings.
  (e) Federal vocational education and training programs study; report.
  (f) Required meetings; establishment of subcommittees.
  (g) Support assistance.

SUBCHAPTER III—TRANSFERS OF AGENCIES AND FUNCTIONS

3441. Transfers from Department of Health, Education, and Welfare.
  (a) Functions transferred to Secretary.
  (b) Offices, etc., transferred to Department.

Sec.
(c) Administrative functions transferred to Secretary.
(d) Reservation of functions relating to Project Head Start.
3442. Transfers from Department of Defense.
(a) Functions relating to operation of overseas schools for and education of dependents.
(b) Functions relating to personnel.
(c) Effectuation of transfers.
(d) Operation of overseas institutions of higher education.
3443. Transfers from Department of Labor.
3444. Transfer of Programs from National Science Foundation.
(a) Science education; exceptions.
(b) Authority of Secretary; consultation and advice.
(c) Report by Secretary.
(d) Reservation of certain Foundation authority.
3445. Transfers from Department of Justice.
3446. Transfers from Department of Housing and Urban Development.
3447. Effect of transfers.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

Part A—Personnel Provisions

3461. Officers and employees.
(a) Appointment and compensation.
(b) Applicability of General Schedule; termination of authority; exemption from limitations on executive positions.
(c) Scientific, technical, or professional employees of Office of Educational Research and Improvement.
(d) Senior Executive Service.
(e) Indian preference laws.
(f) Civilian components.
3462. Experts and consultants.
3463. Personnel reduction and annual limitations.
(a) Work-years limitation; allocations and reports; adjustments.
(b) Full-time equivalent personnel reductions.
(c) Personnel computations.
(d) Report on effects of reorganization on employees.

Part B—General Administrative Provisions

3471. General authority.
3472. Delegation of functions.
3473. Reorganization of Department.
3474. Rules and regulations.
3475. Contracts.
3476. Regional and field offices.
3477. Acquisition and maintenance of property.
(a) Authorized properties; establishment of necessary facilities.
(b) Day care center facilities.
(c) Special purpose facilities.
3478. Facilities at remote locations.
(a) Authorized services, supplies and facilities.
(b) Reimbursements.
(c) Appropriation credits and refunds.
3479. Use of facilities.
(a) Federal, State, local and foreign government facilities; functions of Department of Defense.
(b) Public and private permittees.
(c) Appropriation credits and refunds.
(d) Interests in real property.
3480. Copyrights and patents.
3481. Gifts and bequests.
3482. Technical advice.
Sec.
3483. Working capital fund.
3484. Funds transfer.
3485. Seal of Department.
3486. Annual report.
3487. Relation to general education provisions.
3488. Authorization of appropriations.

SUBCHAPTER V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

3501. Transfer and allocation of appropriations and personnel.
3502. Effect on personnel.
3503. Agency terminations.
3504. Incidental transfers.
3505. Savings provisions.
(a) Orders, determinations, etc.
(b) Proceedings and applications; transfer.
(c) Actions.
(d) Liabilities incurred.
(e) Parties.
(f) Review.
3506. Separability of provisions.
3507. Existing references to transferror officials or bodies deemed references to transferee officials or bodies.
3508. Department of Health and Human Services.
3509. Coordination of programs for handicapped.
3510. Transitional provisions.

SUBCHAPTER I—GENERAL PROVISIONS

§ 3401. Congressional findings

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation;

(2) there is a continuing need to ensure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin, or sex;

(3) parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;

(4) in our Federal system, the primary public responsibility for education is reserved respectively to the States and the local school systems and other instrumentalities of the States;

(5) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(6) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted;

(7) there is a need for improvement in the management and coordination of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(8) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often in-

consistent Federal policies relating to education;

(9) Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government; and

(10) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

(Pub. L. 96-88, title I, § 101, Oct. 17, 1979, 93 Stat. 669.)

EFFECTIVE DATE

Section 601 of Pub. L. 96-88 provided that:

"(a) The provisions of this Act [see Short Title note below] shall take effect one hundred and eighty days after the first Secretary takes office, or on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register, except that at any time on or after October 1, 1979—

"(1) any of the officers provided for in title II of this Act [subchapter II of this chapter] may be nominated and appointed, as provided in such title; and

"(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act [section 3505(b)(2) of this title].

"(b) Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary or the Department by this Act [see Short Title note below], may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title [this section and section 602 of Pub. L. 96-88 set out below] and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available."

SHORT TITLE

Section 1 of Pub. L. 96-88 provided that: "This Act [enacting this chapter, amending sections 928, 929, 1102, 2390, 2711, and 3012 of this title, section 19 of Title 3, The President, sections 101, 5312, and 5314 to 5316 of Title 5, Government Organization and Employees, sections 2, 9, and 11 of the Inspector General Act of 1978, set out in the Appendix to Title 5, section 1004 of Title 21, Food and Drugs, and sections 761b, 794c, 821, 829, 873, 879, 882, 914, and 952 of Title 29, Labor, and enacting provisions set out as notes under sections 1102 and 3401 of this title] may be cited as the 'Department of Education Organization Act'."

INTERIM APPOINTMENTS

Section 602 of Pub. L. 96-88 provided that:

"(a) In the event that one or more officers required by this Act [see Short Title note above] to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act [see Effective Date note above] and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

"(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act."

§ 3402. Declaration of purpose

The Congress declares that the establishment of a Department of Education is in the public interest, will promote the general welfare of the United States, will help ensure that education issues receive proper treatment at the Federal level, and will enable the Federal Government to coordinate its education activities more effectively. Therefore, the purposes of this chapter are—

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual;

(2) to supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, the private sector, public and private educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

(3) to encourage the increased involvement of the public, parents, and students in Federal education programs;

(4) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and sharing of information;

(5) to improve the coordination of Federal education programs;

(6) to improve the management and efficiency of Federal education activities, especially with respect to the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(7) to increase the accountability of Federal education programs to the President, the Congress, and the public.

(Pub. L. 96-88, title I, § 102, Oct. 17, 1979, 93 Stat. 670.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this Act" meaning Pub. L. 96-88, Oct. 17, 1979, 93 Stat. 668, known as the Department of Education Organization Act, which enacted this chapter, amended sections 928, 929, 1102, 2390, 2711, and 3012 of this title, section 19 of Title 3, The President, sections 101, 5312, and 5314 to 5316 of Title 5, Government Organization and Employees, sections 2, 9, and 11 of the Inspector General Act of 1978, set out in the Appendix to Title 5, section 1004 of Title 21, Food and Drugs, and sections 761b, 794c, 821, 829, 873, 879, 882, 914, and 952 of Title 29, Labor, and enacted provisions set out as notes under sections 1102 and 3401 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

§ 3403. Relationship with States

(a) Rights of local governments and educational institutions

It is the intention of the Congress in the establishment of the Department to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies. The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and the local school systems and other instrumentalities of the States.

(b) Curriculum, administration, and personnel; library resources

No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.

(c) Funding under pre-existing programs

The Secretary shall not, during the period within eight months after the effective date of this chapter, take any action to withhold, suspend, or terminate funds under any program transferred by this chapter by reason of the failure of any State to comply with any applicable law requiring the administration of such a program through a single organizational unit.

(Pub. L. 96-88, title I, § 103, Oct. 17, 1979, 93 Stat. 670.)

REFERENCES IN TEXT

For effective date of this chapter, referred to in subsec. (c), see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3423 of this title.

§ 3404. Definitions

As used in this chapter, unless otherwise provided or indicated by the context—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(5) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(6) the terms "private" and "private educational" refer to independent, nonpublic, and private institutions of elementary, secondary, and postsecondary education; and

(7) the term "office" includes any office, institute, council, unit, organizational entity, or component thereof.

(Pub. L. 96-88, title I, § 104, Oct. 17, 1979, 93 Stat. 671.)

SUBCHAPTER II—ESTABLISHMENT OF THE DEPARTMENT

§ 3411. Establishment of Department; appointment of Secretary

There is established an executive department to be known as the Department of Education. The Department shall be administered, in accordance with the provisions of this chapter, under the supervision and direction of a Secretary of Education. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(Pub. L. 96-88, title II, § 201, Oct. 17, 1979, 93 Stat. 671.)

§ 3412. Principal officers

(a) Under Secretary of Education

(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(2)(A) The Under Secretary shall have responsibility for the conduct of intergovernmental relations of the Department, including assuring (i) that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States and the local school systems and other instrumentalities of the States, and (ii) that appropriate officials of the Department consult with individuals responsible for making policy relating to education in the States and the local school systems and other instrumentalities of the States concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States and the local school systems and other instrumentalities of the States.

(B) Local education authorities may inform the Under Secretary of any rules or regulations of the Department which are in conflict with another rule or regulation issued by any other Federal department or agency or with any other office of the Department. If the Under Secretary determines, after consultation with the appropriate Federal department or agency, that such a conflict does exist, the Under Secretary shall report such conflict or conflicts to the appropriate Federal department or agency together with recommendations for the correction of the conflict.

(b) Assistant Secretaries and General Counsel

(1) There shall be in the Department—

(A) an Assistant Secretary for Elementary and Secondary Education;

(B) an Assistant Secretary for Postsecondary Education;

(C) an Assistant Secretary for Vocational and Adult Education;

(D) an Assistant Secretary for Special Education and Rehabilitative Services;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) an Assistant Secretary for Civil Rights; and

(G) a General Counsel.

(2) Each of the Assistant Secretaries and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Inspector General

There shall be in the Department an Inspector General appointed in accordance with the Inspector General Act of 1978.

(d) Additional officers

There shall be in the Department four additional officers who shall be appointed by the President, by and with the advice and consent of the Senate. The officers appointed under this subsection shall perform such functions as the Secretary shall prescribe, including—

(1) congressional relations functions;

(2) public information functions, including the provision, through the use of the latest technologies, of useful information about education and related opportunities to students, parents, and communities;

(3) functions related to monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs;

(4) management and budget functions;

(5) planning, evaluation, and policy development functions, including development of policies to promote the efficient and coordinated administration of the Department and its programs and to encourage improvements in education; and

(6) functions related to encouraging and promoting the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

(e) Administrator of Education for Overseas Dependents

There shall be in the Department an Administrator of Education for Overseas Dependents.

(f) Statements of functions of nominees

Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

(g) Supervision by Secretary

Each officer of the Department established under this section shall report directly to the Secretary and shall, in addition to any functions vested in or required to be delegated to such officer, perform such additional functions as the Secretary may prescribe.

(Pub. L. 96-88, title II, § 202, Oct. 17, 1979, 93 Stat. 671.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (c), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3413, 3414, 3415, 3416, 3417, 3418, 3419, 3421, 3473 of this title.

§ 3413. Office for Civil Rights

(a) Establishment; administration; delegation of functions

There shall be in the Department an Office for Civil Rights, to be administered by the Assistant Secretary for Civil Rights appointed under section 3412(b) of this title. Notwithstanding the provisions of section 3472 of this title, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, transferred to the Secretary under section 3441(a)(3) of this title.

(b) Compliance and enforcement reports; copies submitted to Secretary

(1) The Assistant Secretary for Civil Rights shall make an annual report to the Secretary, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(2) Notwithstanding any other provision of law, the report required by paragraph (1) shall be transmitted to the Secretary, the President, and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the report required by paragraph (1) to the Secretary sufficiently in advance of its submission to the President and the Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the report.

(c) Authority of Assistant Secretary

In addition to the authority otherwise provided under this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of such Office, subject to the provisions of title 5 governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to

make such payments as may be necessary to carry out the compliance and enforcement functions of such Office; and

(4) notwithstanding any other provision of this chapter, to obtain services as authorized by section 3109 of title 5 at a rate not to exceed the equivalent daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title.

(Pub. L. 96-88, title II, § 203, Oct. 17, 1979, 93 Stat. 673.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (c)(2), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 3414. Office of Elementary and Secondary Education

There shall be in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate.

(Pub. L. 96-88, title II, § 204, Oct. 17, 1979, 93 Stat. 674.)

§ 3415. Office of Postsecondary Education

There shall be in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate, and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

(Pub. L. 96-88, title II, § 205, Oct. 17, 1979, 93 Stat. 674.)

§ 3416. Office of Vocational and Adult Education

There shall be in the Department an Office of Vocational and Adult Education, to be administered by the Assistant Secretary for Vocational and Adult Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate, and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education. The Secretary, through the Assistant Secretary, shall also provide a unified approach to rural education and rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies.

(Pub. L. 96-88, title II, § 206, Oct. 17, 1979, 93 Stat. 674.)

§ 3417. Office of Special Education and Rehabilitative Services

There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary for Special Education and Rehabilitative Services appointed under section 3412(b) of this title. Notwithstanding the provisions of section 3472 of this title, the Secretary shall delegate to the Assistant Secretary all functions, other than administrative and support functions, transferred to the Secretary under sections 3441(a)(1) of this title (with respect to the bureau for the education and training of the handicapped), 3441(a)(2)(H) of this title, and 3441(a)(4) of this title.

(Pub. L. 96-88, title II, § 207, Oct. 17, 1979, 93 Stat. 674.)

§ 3418. Office of Education for Overseas Dependents

There shall be in the Department an Office of Education for Overseas Dependents, to be administered by the Administrator of Education for Overseas Dependents appointed under section 3412(e) of this title. Notwithstanding the provisions of section 3472 of this title, the Secretary shall delegate to the Administrator all functions, other than administrative and support functions, transferred to the Secretary under section 3442 of this title.

(Pub. L. 96-88, title II, § 208, Oct. 17, 1979, 93 Stat. 674.)

§ 3419. Office of Educational Research and Improvement

There shall be in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Educational Research and Improvement appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate.

(Pub. L. 96-88, title II, § 209, Oct. 17, 1979, 93 Stat. 674.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3461 of this title.

§ 3420. Office of Bilingual Education and Minority Languages Affairs

There shall be in the Department an Office of Bilingual Education and Minority Languages Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department and shall consult with the Secretary concerning policy decisions affecting bilingual education and minority languages affairs. The Director shall report directly to the Secretary, and shall perform such additional functions as the Secretary may prescribe.

(Pub. L. 96-88, title II, § 210, Oct. 17, 1979, 93 Stat. 675.)

§ 3421. Office of General Counsel

There shall be in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 3412(b) of this title. The General Counsel shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

(Pub. L. 96-88, title II, § 211, Oct. 17, 1979, 93 Stat. 675.)

§ 3422. Office of Inspector General

There shall be in the Department an Office of Inspector General, established in accordance with the Inspector General Act of 1978.

(Pub. L. 96-88, title II, § 212, Oct. 17, 1979, 93 Stat. 675.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in text, is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3423. Intergovernmental Advisory Council on Education

(a) Establishment and function

There shall be in the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereafter referred in this section as the "Council"). The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b) Purposes; compliance and enforcement and regulatory reports

(1) In carrying out its functions under subsection (a) of this section, the Council shall—

(A) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(B) make recommendations for the improvement of the administration and operation of Federal education and education related programs;

(C) promote better intergovernmental relations;

(D) submit, biennially or more frequently (if determined necessary by the Council), a report to the Secretary, the President, and the Congress (i) reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 3403 of this title and of any change in the Federal role in education, and (ii) assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(2) In carrying out its functions under subsection (a) of this section, the Council may review existing and proposed rules or regulations of the Department concerning Federal education programs in order to determine the impact or potential impact of such rules or regulations on State and local governments and public and private educational institutions. The Council may submit to the Secretary a report containing the results of its review of any existing or proposed rule or regulation. If a report by the Council concerns a proposed rule or regulation, it shall be submitted to the Secretary within the time established for public comment on the proposed rule or regulation, and shall be placed in the file of the proceeding concerning the proposed rule or regulation.

(c) Membership; term of office

(1) The Council shall be composed of twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, from among board members, chief education officials, administrators, and teachers;

(C) five representatives of public and private postsecondary education, from among board members, chief education officials, administrators, and professors; and

(D) four members of the public, including parents of students and students.

(2) In making appointments under this subsection, the President shall—

(A) consult with representatives of the groups specified in subparagraphs (A) through (D) of paragraph (1); and

(B) select individuals who represent a diversity of geographic areas and demographic characteristics.

(3) The Under Secretary shall be an ex officio member of the Council.

(4) The term of office of a member of the Council shall be four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(5) The President shall designate one member to chair the Council.

(6) Any vacancy in the Council shall not affect its authority.

(d) Appointment of Executive Director; staff, facilities and services

The Council shall nominate and the Secretary shall appoint an executive director for the Council. The Secretary shall provide the Council with such other staff, facilities, services, and support as may be necessary to enable the Council to carry out its duties under this section.

(Pub. L. 96-88, title II, § 213, Oct. 17, 1979, 93 Stat. 675.)

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3424. Federal Interagency Committee on Education

(a) Establishment and function

There is established a Federal Interagency Committee on Education (hereafter referred to in this section as the "Committee"). The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) Coordination of Federal programs, policies and practices

The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this chapter;

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served; and

(5) full and effective involvement and participation of students and parents in Federal education programs.

(c) Membership

The Committee shall be composed of the Secretary, who shall chair the Committee, and senior policy making officials from those Federal agencies, commissions, and boards that the President may find appropriate.

(d) Designation of additional persons to attend meetings

The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) Federal vocational education and training programs study; report

The Committee shall conduct a study concerning the progress, effectiveness, and accomplishments of Federal vocational education and training programs, and the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of October 17, 1979.

(f) Required meetings; establishment of subcommittees

The Committee shall meet at least twice each year. The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(g) Support assistance

The Secretary and the head of each agency represented on the Committee under subsection (c) of this section shall furnish necessary assistance to the Committee.

(Pub. L. 96-88, title II, § 214, Oct. 17, 1979, 93 Stat. 676.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER III—TRANSFERS OF AGENCIES AND FUNCTIONS

§ 3441. Transfers from Department of Health, Education, and Welfare

(a) Functions transferred to Secretary

There are transferred to the Secretary—

(1) all functions of the Assistant Secretary for Education and of the Commissioner of Education of the Department of Health, Education, and Welfare, and all functions of the Office of such Assistant Secretary and of the Education Division of the Department of Health, Education, and Welfare and of any officer or component of such Office or Division;

(2) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under—

(A) the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(B) the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2701 et seq.];

(C) the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.];

(D) the Education Amendments of 1978;

(E) the Act of August 30, 1890 (7 U.S.C. 321-328);

(F) the National Defense Education Act of 1958 [20 U.S.C. 401 et seq.];

(G) the International Education Act of 1966 [20 U.S.C. 1171 et seq.];

(H) the Education of the Handicapped Act [20 U.S.C. 1401 et seq.];

(I) part B of title V of the Economic Opportunity Act of 1964 [42 U.S.C. 2929 et seq.];

(J) the National Commission on Libraries and Information Science Act [20 U.S.C. 1501 et seq.];

(K) the Vocational Education Act of 1963 [20 U.S.C. 2301 et seq.];

(L) the Career Education Incentive Act [20 U.S.C. 2601 et seq.];

(M) laws relating to the relationship between (i) Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(N) the Model Secondary School for the Deaf Act [D.C. Code, § 31-1051 et seq.];

(O) subpart A[B] of part IV of title III of the Communications Act of 1934 [47 U.S.C. 395 et seq.] with respect to the telecommunications demonstration program;

(P) section 203(k) of the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 484(k)] with respect to donations of surplus property for educational purposes; and

(Q) the Alcohol and Drug Abuse Education Act [21 U.S.C. 1001 et seq.];

(3) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare with respect to or being administered by the Office for Civil Rights which relate to functions transferred by this section;

(4)(A) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act [42 U.S.C. 422 and 1382d];

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(C) all functions of the Commissioner of Rehabilitation and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.];

(5) all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare, and of the Director thereof;

(6) all functions of the Advisory Council on Education Statistics; and

(7) all functions of the Federal Education Data Acquisition Council.

(b) Offices, etc., transferred to Department

There are transferred to the Department—

(1) all offices in the Office of the Assistant Secretary for Education or in the Education Division of the Department of Health, Education, and Welfare;

(2) all offices in the Department of Health, Education, and Welfare established under the provisions of law listed in subparagraphs (A) through (Q) of subsection (a)(2) of this section;

(3) all offices in the Department of Health, Education, and Welfare established under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.];

(4) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(5) the Advisory Council on Education Statistics;

(6) the Federal Education Data Acquisition Council; and

(7) any advisory committee of the Department of Health, Education, and Welfare giving advice or making recommendations that primarily concern education functions transferred by this section.

(c) Administrative functions transferred to Secretary

There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(1) the Education Division of the Department of Health, Education, and Welfare;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and

(3) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education functions transferred by this section.

(d) Reservation of functions relating to Project Head Start

Nothing in the provisions of this section or in the provisions of this chapter shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964 [42 U.S.C. 2928 et seq.], relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

(Pub. L. 96-88, title III, § 301, Oct. 17, 1979, 93 Stat. 677.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (a)(2)(A), is title IV of Pub. L. 90-247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(B), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2152, which is classified generally to chapter 47 (§ 2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (a)(2)(C), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Education Amendments of 1978, referred to in subsec. (a)(2)(D), is Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143, as amended. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 2701 of this title and Tables.

The Act of August 30, 1890 (7 U.S.C. 321-328), referred to in subsec. (a)(2)(E), is act Aug. 30, 1890, ch.

841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

The National Defense Education Act of 1958, referred to in subsec. (a)(2)(F), is Pub. L. 85-864, Sept. 2, 1958, 72 Stat. 1580, as amended, which is classified principally to chapter 17 (§ 401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

The International Education Act of 1966, referred to in subsec. (a)(2)(G), is Pub. L. 89-698, Oct. 29, 1966, 80 Stat. 1066, as amended, which is classified principally to chapter 29 (§ 1171 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1171 of this title and Tables.

The Education of the Handicapped Act, referred to in subsec. (a)(2)(H), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of this title and Tables.

The Economic Opportunity Act of 1964, referred to in subsec. (a)(2)(I) and (d), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Parts A and B of title V of the Economic Opportunity Act of 1964 are classified generally to parts A (§ 2928 et seq.) and B (§ 2929 et seq.) of subchapter V of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 42 and Tables.

The National Commission on Libraries and Information Science Act, referred to in subsec. (a)(2)(J), is Pub. L. 91-345, July 20, 1970, 84 Stat. 440, as amended, which is classified generally to chapter 34 (§ 1501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

The Vocational Education Act of 1963, referred to in subsec. (a)(2)(K), is title I of Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, which was classified to chapter 32 (§ 1241 et seq.) of this title and was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94-482, title II, § 202(a), Oct. 21, 1976, 90 Stat. 2169, and is now classified to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables. For additional details, see also the Codification note preceding section 1241 of this title.

The Career Education Incentive Act, referred to in subsec. (a)(2)(L), is Pub. L. 95-207, Dec. 13, 1977, 91 Stat. 1464, as amended, which is classified principally to chapter 46 (§ 2601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The Model Secondary School for the Deaf Act, referred to in subsec. (a)(2)(N), is Pub. L. 89-694, Oct. 15, 1966, 80 Stat. 1027, which is classified to subchapter II (§ 31-1051 et seq.) of chapter 10 of the D.C. Code.

The Communications Act of 1934, referred to in subsec. (a)(2)(O), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended. Subpart A of part IV of title III of the Act (which is classified principally to subpart A (§ 390 et seq.) of part IV of subchapter III of chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs) was amended by section 201 of Pub. L. 95-567, Nov. 2, 1978, 92 Stat. 2409, and as so amended the provisions relating to telecommuncations demonstrations which had appeared in subpart A were restated in a new subpart B (§ 395 et seq.). For complete classification of the 1934 Act to the Code, see section 609 of Title 47 and Tables.

The Alcohol and Drug Abuse Education Act, referred to in subsec. (a)(2)(Q), is Pub. L. 91-527, Dec. 3, 1970, 84 Stat. 1385, as amended, which is classified generally to chapter 14 (§ 1001 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 21 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a)(4)(A), (C), and (b)(3), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act, referred to in subsec. (a)(4)(B), is act June 20, 1936, ch. 638, 49 Stat. 1559, as amended, which is classified generally to chapter 6A (§ 107 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 107 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3413, 3417, 3474 of this title.

§ 3442. Transfers from Department of Defense

(a) Functions relating to operation of overseas schools for and education of dependents

Notwithstanding the provisions of section 601 of this Act, at such time not later than three years after the effective date of this chapter, and in such manner, as the President may designate, there shall be transferred to the Secretary all functions of the Secretary of Defense and of the Department of Defense (or any officer or component thereof) relating to the operation of overseas schools for dependents of the Department of Defense and all functions of the Secretary of Defense and of the Department of Defense (or any officer or component thereof) under the Defense Dependents' Education Act of 1978 [20 U.S.C. 921 et seq.]. There shall be transferred to the Department the offices established by such Act.

(b) Functions relating to personnel

In addition to any other authority available to the Secretary under this chapter or any other Act, the authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act [20 U.S.C. 901 et seq.] shall be available to the Secretary with respect to the functions transferred under subsection (a) of this section.

(c) Effectuation of transfers

Not later than one year after the effective date of this chapter, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing the plan, the Secretary shall also consult with representatives of organizations of parents of students enrolled in overseas dependents' schools and representatives of professional employee organizations and administrators of such schools. The plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

(d) Operation of overseas institutions of higher education

Nothing in this chapter shall be construed to give the Secretary authority to operate overseas institutions of higher education.

(Pub. L. 96-88, title III, § 302, Oct. 17, 1979, 93 Stat. 679.)

REFERENCES IN TEXT

Section 601 of this Act, referred to in subsec. (a), is section 601 of Pub. L. 96-88, which is set out as an Effective Date note under section 3401 of this title.

For effective date of this chapter, referred to in subsecs. (a) and (c), see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

The Defense Dependents' Education Act of 1978, referred to in subsec. (a), is title XIV of Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2365, as amended, which is classified principally to chapter 25A (§ 921 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 921 of this title and Tables.

The Defense Department Overseas Teachers Pay and Personnel Practices Act, referred to in subsec. (b), is Pub. L. 86-91, July 17, 1959, 73 Stat. 213, as amended, which is classified generally to chapter 25 (§ 901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3418, 3474, 3479, 3503 of this title.

§ 3443. Transfers from Department of Labor

(a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to the Secretary, at such time on or after the effective date of this chapter as the Secretary certifies that there has been established in the Department a single component responsible for the administration and the coordination of programs relating to the education of migrants, all functions of the Secretary of Labor or the Department of Labor under section 873(c)(2) of title 29.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a) of this section.

(Pub. L. 96-88, title III, § 303, Oct. 17, 1979, 93 Stat. 680.)

REFERENCES IN TEXT

Section 601 of this Act, referred to in subsec. (a), is section 601 of Pub. L. 96-88, which is set out as an Effective Date note under section 3401 of this title.

For effective date of this chapter, referred to in subsec. (a), see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3474 of this title.

§ 3444. Transfer of Programs from National Science Foundation

(a) Science education; exceptions

(1) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation established prior to the effective date of this chapter pursuant to the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.], except the programs or parts of programs, as determined after review by the Director of the Office of Science and Technology Policy and the Director of the National Science Foundation, which relate to—

(A) scientific career development;

(B) the continuing education of scientific personnel;

(C) increasing the participation of women, minorities, and the handicapped in careers in science;

(D) the conduct of basic and applied research and development applied to science learning at all educational levels and the dissemination of results concerning such research and development; and

(E) informing the general public of the nature of science and technology and of attendant values and public policy issues.

(2) Except as provided in paragraph (1), no mission oriented research functions or programs of the National Science Foundation or any other Federal agency shall be transferred by this chapter.

(b) Authority of Secretary; consultation and advice

The Secretary is authorized to conduct the programs transferred by subsection (a) of this section. In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation, and shall establish advisory mechanisms designed to assure that scientists and engineers are fully involved in the development, implementation, and review of science education programs.

(c) Report by Secretary

The annual report to be transmitted by the Secretary pursuant to section 3486 of this title shall include a description of arrangements, developed by the Secretary in consultation with the Director of the National Science Foundation, for coordinated planning and operation of science education programs, including measures to facilitate the implementations of successful innovations.

(d) Reservation of certain Foundation authority

Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs under the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.].

(Pub. L. 96-88, title III, § 304, Oct. 17, 1979, 93 Stat. 680.)

REFERENCES IN TEXT

For effective date of this chapter, referred to in subsec. (a)(1), see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

The National Science Foundation Act of 1950, referred to in subsec. (a)(1) and (d), is act May 10, 1950, ch. 171, 64 Stat. 149, as amended, which is classified generally to chapter 16 (§ 1861 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1861 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3474 of this title.

§ 3445. Transfers from Department of Justice

There are transferred to the Secretary all functions of the Attorney General and of the Law Enforcement Assistance Administration with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 3775 of title 42.

(Pub. L. 96-88, title III, § 305, Oct. 17, 1979, 93 Stat. 680.)

CODIFICATION

Section 3775 of title 42, referred to in text, was in the original section 406 of the Omnibus Crime Control and Safe Streets Act of 1968, which was classified to section 3746 of Title 42, The Public Health and Welfare. Title I of the Act was amended generally by Pub. L. 96-157, § 2, Dec. 27, 1979, 93 Stat. 1167, and provisions formerly contained in section 406 of the Act are now contained in section 705, which is classified to section 3775 of Title 42.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3474 of this title.

§ 3446. Transfers from Department of Housing and Urban Development

There are transferred to the Secretary all functions relating to college housing loans of the Secretary of Housing and Urban Development and of the Department of Housing and Urban Development under title IV of the Housing Act of 1950 [12 U.S.C. 1749 et seq.].

(Pub. L. 96-88, title III, § 306, Oct. 17, 1979, 93 Stat. 681.)

REFERENCES IN TEXT

The Housing Act of 1950, referred to in text, is act Apr. 20, 1950, ch. 94, 64 Stat. 48, as amended. Title IV of the Housing Act of 1950 is classified generally to subchapter IX (§ 1749 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3474 of this title.

§ 3447. Effect of transfers

The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

(Pub. L. 96-88, title III, § 307, Oct. 17, 1979, 93 Stat. 681.)

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

§ 3461. Officers and employees

(a) Appointment and compensation

The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5.

(b) Applicability of General Schedule; termination of authority; exemption from limitations on executive positions

(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this chapter and which were assigned and filled on the day before the effective date of this chapter.

(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, provide for the establishment in the Office created by section 3419 of this title of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this chapter and which were assigned and filled on the day before the effective date of this chapter.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this chapter and, on the day preceding the effective date of this chapter, holds a position and has duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day preceding the effective date of this chapter.

(c) Scientific, technical, or professional employees of Office of Educational Research and Improvement

The Secretary may appoint, without regard to the provisions of title 5 governing appointment in the competitive service, up to 175 scientific, technical, or professional employees of the Office created by section 3419 of this title and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS-16 of the General Schedule under section 5332 of such title.

(d) Senior Executive Service

Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5. Such positions shall expire on the later of three years after the effective date of this chapter or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions prescribed under section 3134(e) and section 5108 of such title.

(e) Indian preference laws

Nothing in this chapter shall be construed to prevent the application of any Indian preference law in effect on the day before October 17, 1979, to any function or office transferred by this chapter and subject to any such law on the day before October 17, 1979. Any function or office transferred by this chapter and subject to any such law shall continue to be subject to any such law.

(f) Civilian components

For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

(Pub. L. 96-88, title IV, § 401, Oct. 17, 1979, 93 Stat. 681.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that Title.

Grade levels GS-16, GS-17, and GS-18 and the General Schedule, referred to in subsecs. (b)(1) and (2), are set out under section 5332 of Title 5.

For effective date of this chapter, referred to in subsecs. (b)(1)-(3), (5), and (d), see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

Section 414(a)(3)(A) of the Civil Service Reform Act of 1978, referred to in subsec. (b)(5), is section 414(a)(3)(A) of Pub. L. 95-454, title IV, Oct. 13, 1978, 92 Stat. 1178 which is set out as a note under sections 3104 and 5108 of Title 5, Government Organization and Employees.

The provisions of title 5 governing appointment in the competitive service, referred to in subsec. (c), are classified to section 3301 et seq. of Title 5.

§ 3462. Experts and consultants

The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5 and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

(Pub. L. 96-88, title IV, § 402, Oct. 17, 1979, 93 Stat. 682.)

§ 3463. Personnel reduction and annual limitations

(a) Work-years limitation; allocations and reports; adjustments

(1) Notwithstanding any other provision of this chapter, there shall be included in each appropriation Act containing appropriations for the administration of the Department for any fiscal year beginning after September 30, 1981 (other than an appropriation Act containing only supplemental appropriations for the Department), an annual limitation on the total number of work-years for the personnel of the Department.

(2) The Secretary shall prescribe the allocation of the work-years available under paragraph (1) among the organizational units and components of the Department and shall, within 120 days after the enactment of an appropriation Act containing a work-year limitation, prepare and transmit to the Congress a report on such allocation. Such report shall include explanations and justifications for the allocations made by the Secretary and shall indicate the necessary personnel actions which will be required as a consequence of such allocation. Not later than 120 days after the conclusion of any fiscal year to which a work-year limitation established under paragraph (1) applies, the Secretary shall prepare and transmit to the Congress a report on compliance with such limitation indicating the total work-years actually expended by the Department and by the organizational units and components to which such work-years were allocated.

(3) If the President transmits any reorganization plan under chapter 9 of title 5 which would result in the transfer of functions or offices to the Secretary or the Department, the message transmitting the plan shall include any adjustments which may be necessary in a work-year limitation established under paragraph (1) to reflect changes in the work-years required as a result of such plan.

(b) Full-time equivalent personnel reductions

Not later than the end of the first fiscal year beginning after the effective date of this chapter, the number of full-time equivalent personnel positions available for performing functions transferred to the Secretary or the Department by this chapter shall be reduced by 500.

(c) Personnel computations

(1) Computations required to be made for purposes of this section shall be made on the basis of all personnel employed by the Department, including experts and consultants employed under section 3109 of title 5 and all other part-time and full-time personnel employed to perform functions of the Secretary or the Department, except personnel employed under special programs for students and disadvantaged youth (including temporary summer employment).

(2) The Director of the Office of Personnel Management shall, by rule, establish a method for computing work-years for personnel of the Department as described in paragraph (1).

(d) Report on effects of reorganization on employees

The Director of the Office of Personnel Management shall, as soon as practicable, but not later than one year after the effective date of this chapter, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this chapter, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this chapter;

(2) a statement of the number of employees entitled to pay savings by reason of the organization under this chapter;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

(Pub. L. 96-88, title IV, § 403, Oct. 17, 1979, 93 Stat. 682.)

REFERENCES IN TEXT

For effective date of this chapter, referred to in subsecs. (b) and (d), see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

PART B—GENERAL ADMINISTRATIVE PROVISIONS

§ 3471. General authority

(a) In carrying out any function transferred by this chapter, the Secretary, or any officer or employee of the Department, may exercise any authority available by law (including appropriation Acts) with respect to such function to the official or agency from which such function is transferred, and the actions of the Secretary in exercising such authority shall have the same force and effect as when exercised by such official or agency.

(b)(1) The director of any office continued in the Department the director of which was required, prior to the effective date of this chapter, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare, shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) to any officer or employee of the Department.

(Pub. L. 96-88, title IV, § 411, Oct. 17, 1979, 93 Stat. 683.)

REFERENCES IN TEXT

For effective date of this chapter, referred to in subsec. (b)(1), see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

§ 3472. Delegation of functions

Except as otherwise provided in this chapter, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this chapter shall relieve the Secretary of responsibility for the administration of such functions.

(Pub. L. 96-88, title IV, § 412, Oct. 17, 1979, 93 Stat. 684.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3413, 3417, 3418 of this title.

§ 3473. Reorganization of Department

(a) The Secretary is authorized, subject to the requirements of section 3412(f) of this title, to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate, but the authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity transferred to the Department and established by statute or any function vested by statute in such an entity or officer of such an entity, except as provided in subsection (b) of this section;

(2) the abolition of organizational entities established by this chapter; or

(3) the alteration of the delegation of functions to any specific organizational entity required by this chapter.

(b)(1) The Secretary may, in accordance with paragraph (2) of this subsection, consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) the Office of Bilingual Education;

(B) the Teacher Corps;

(C) the Community College Unit;

(D) the National Center for Education Statistics;

(E) the National Institute of Education;

(F) the Office of Environmental Education;

(G) the Office of Consumers' Education;

(H) the Office of Libraries and Learning Resources;

(I) the Office of Indian Education;

(J) the Office of Career Education;

(K) the Office of Non-Public Education;

(L) the bureau for the education and training for the handicapped;

(M) the Institute of Museum Services; and

(N) the administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, upon the expiration of a period of ninety days after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete state-

ment of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(Pub. L. 96-88, title IV, § 413, Oct. 17, 1979, 93 Stat. 684.)

§ 3474. Rules and regulations

(a) The Secretary is authorized to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department.

(b) The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5. Section 1232 of this title also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this chapter, and to rules and regulations promulgated with respect to programs transferred under sections 3441(a)(1), (2), and (4), 3442, 3443, 3444, 3445, and 3446 of this title.

(Pub. L. 96-88, title IV, § 414, Oct. 17, 1979, 93 Stat. 685.)

REFERENCES IN TEXT

For effective date of this chapter, referred to in subsec. (b), see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

§ 3475. Contracts

(a) Subject to the provisions of the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 471 et seq.], the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may determine necessary or appropriate to carry out functions of the Secretary or the Department.

(b) Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subchapter shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 3481 of this title.

(Pub. L. 96-88, title IV, § 415, Oct. 17, 1979, 93 Stat. 685.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that act relating to contracts are classified to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3486 of this title.

§ 3476. Regional and field offices

The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may find necessary or appropriate to perform functions of the Secretary or the Department.

(Pub. L. 96-88, title IV, § 416, Oct. 17, 1979, 93 Stat. 685.)

§ 3477. Acquisition and maintenance of property

(a) Authorized properties; establishment of necessary facilities

The Secretary is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

(A) schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this chapter);

(B) laboratories;

(C) research and testing sites and facilities;

(D) quarters and related accommodations for employees and dependents of employees of the Department; and

(E) personal property (including patents), or any interest therein,

as may be necessary; and

(2) to provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) Day care center facilities

The authority available to the Secretary of Health, Education, and Welfare under section 2564 of this title, shall also be available to the Secretary.

(c) Special purpose facilities

The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

(Pub. L. 96-88, title IV, § 417, Oct. 17, 1979, 93 Stat. 685.)

§ 3478. Facilities at remote locations

(a) Authorized services, supplies and facilities

The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) Reimbursements

The furnishing of medical treatment under paragraph (1) of subsection (a) of this section and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) of this section shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Appropriation credits and refunds

Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or used to refund excess sums when necessary.

(Pub. L. 96-88, title IV, § 418, Oct. 17, 1979, 93 Stat. 686.)

§ 3479. Use of facilities

(a) Federal, State, local and foreign government facilities; functions of Department of Defense

(1) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function of the Secretary or the Department.

(2) Notwithstanding the transfer of functions from the Secretary of Defense to the Secretary under section 3442 of this title (and the consequent transfer of personnel), all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) Public and private permittees

The Secretary is authorized to permit public and private agencies, corporations, associations, organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 472(e) of title 40.

(c) Appropriation credits and refunds

Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such equipment or facilities provided or to refund excess sums when necessary.

(d) Interests in real property

Any interest in real property acquired pursuant to this chapter shall be acquired in the name of the United States Government.

(Pub. L. 96-88, title IV, § 419, Oct. 17, 1979, 93 Stat. 686.)

§ 3480. Copyrights and patents

The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

(Pub. L. 96-88, title IV, § 420, Oct. 17, 1979, 93 Stat. 687.)

§ 3481. Gifts and bequests

The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

(Pub. L. 96-88, title IV, § 421, Oct. 17, 1979, 93 Stat. 687.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3475 of this title.

§ 3482. Technical advice

(a) The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(b) The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions of the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

(Pub. L. 96-88, title IV, § 422, Oct. 17, 1979, 93 Stat. 687.)

§ 3483. Working capital fund

(a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components;

(2) central messenger, mail, telephone, and other communications services;

(3) office space, central services for document reproduction, and for graphics and visual aids; and

(4) a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

(Pub. L. 96-88, title IV, § 423, Oct. 17, 1979, 93 Stat. 687.)

§ 3484. Funds transfer

The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

(Pub. L. 96-88, title IV, § 424, Oct. 17, 1979, 93 Stat. 688.)

§ 3485. Seal of Department

The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

(Pub. L. 96-88, title IV, § 425, Oct. 17, 1979, 93 Stat. 688.)

§ 3486. Annual report

(a) The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. The report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward—

(1) the attainment of such goals, priorities, and plans;

(2) the more effective and efficient management of the Department and the coordination of its functions; and

(3) the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs,

accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives.

(b) The report required by subsection (a) of this section shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 3475 of this title or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

(Pub. L. 96-88, title IV, § 426, Oct. 17, 1979, 93 Stat. 688.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3444 of this title.

§ 3487. Relation to general education provisions

Except where inconsistent with the provisions of this chapter, the General Education Provisions Act [20 U.S.C. 1221 et seq.] shall apply to functions transferred by this chapter to the extent applicable on the day preceding the effective date of this chapter.

(Pub. L. 96-88, title IV, § 427, Oct. 17, 1979, 93 Stat. 689.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in text, is title IV of Pub. L. 90-247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

For the effective date of this chapter, referred to in text, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

§ 3488. Authorization of appropriations

Subject to any limitation on appropriations applicable with respect to any function or office transferred to the Secretary or the Department, there are authorized to be appropriated for fiscal year 1980 and each succeeding fiscal year such sums as may be necessary to carry out the provisions of this chapter and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

(Pub. L. 96-88, title IV, § 428, Oct. 17, 1979, 93 Stat. 689.)

SUBCHAPTER V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

§ 3501. Transfer and allocation of appropriations and personnel

(a) Except as otherwise provided in this chapter, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this chapter, subject to section 581c of title 31, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this chapter, personnel occupying those positions on the effective date of this chapter, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on the effective date of this chapter, shall be subject to the provisions of section 3503 of this title.

(Pub. L. 96–88, title V, § 501, Oct. 17, 1979, 93 Stat. 689.)

References in Text

For effective date of this chapter, referred to in subsec. (b), see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 3502. Effect on personnel

(a) Except as otherwise provided in this chapter, the transfer pursuant to this subchapter of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this chapter, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5 and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(Pub. L. 96–88, title V, § 502, Oct. 17, 1979, 93 Stat. 690.)

References in Text

For effective date of this chapter, referred to in subsec. (b), see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 3503. Agency terminations

(a)(1) On the effective date of this chapter, the following entities shall terminate:

(A) the Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(B) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(C) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

(2) Whenever the President exercises the authority under section 3442(a) of this title, the Office of Dependents' Education of the Department of Defense shall terminate.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this chapter shall also terminate.

(Pub. L. 96–88, title V, § 503, Oct. 17, 1979, 93 Stat. 690.)

References in Text

For effective date of this chapter, referred to in subsec. (a)(1), see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

Section Referred to in Other Sections

This section is referred to in section 3501 of this title.

§ 3504. Incidental transfers

(a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this chapter, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out the provisions of this chapter. The Director shall provide for the termination of the affairs of all entities terminated by this chapter and for such further measures and dispositions as may be necessary to effectuate the purposes of this chapter.

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this chapter.

(Pub. L. 96–88, title V, § 504, Oct. 17, 1979, 93 Stat. 690.)

§ 3505. Savings provisions

(a) Orders, determinations, etc.

All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this chapter to the Secretary or the Department, and

(2) which are in effect at the time this chapter takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) Proceedings and applications; transfer

(1) The provisions of this chapter shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this chapter before any department, agency, commission, or component thereof, functions of which are transferred by this chapter; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Actions

Except as provided in subsection (e) of this section—

(1) the provisions of this chapter shall not affect suits commenced prior to the effective date of this chapter, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this chapter had not been enacted.

(d) Liabilities incurred

No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this chapter, shall abate by reason of the enactment of this chapter. No cause of action by or against any department or agency, functions of which are transferred by this chapter, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this chapter.

(e) Parties

If, before the date on which this chapter takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this chapter any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Review

Orders and actions of the Secretary in the exercise of functions transferred under this chapter shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this chapter shall apply to the exercise of such function by the Secretary.

(Pub. L. 96-88, title V, § 505, Oct. 17, 1979, 93 Stat. 691.)

REFERENCES IN TEXT

For effective date of this chapter, referred to in subsecs. (a)(2), (b)(1), (c)(1), and (e), see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

§ 3506. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, neither the remainder of this chapter nor the application of such provision to other persons or circumstances shall be affected thereby.

(Pub. L. 96-88, title V, § 506, Oct. 17, 1979, 93 Stat. 692.)

§ 3507. Existing references to transferor officials or bodies deemed references to transferee officials or bodies

With respect to any function transferred by this chapter and exercised on or after the effective date of this chapter, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this chapter transfers such functions.

(Pub. L. 96-88, title V, § 507, Oct. 17, 1979, 93 Stat. 692.)

REFERENCES IN TEXT

For effective date of this chapter, referred to in text, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

§ 3508. Department of Health and Human Services

(a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this chapter shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function or office transferred to the Secretary or the Department under this chapter.

(Pub. L. 96-88, title V, § 509, Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

For effective date of this chapter, referred to in subsec. (b), see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of this title.

§ 3509. Coordination of programs for handicapped

The Secretary of Health and Human Services shall identify, assess, coordinate, and eliminate conflict, duplication, and inconsistencies among programs significantly affecting handicapped individuals carried out by or under the Department of Health and Human Services, shall promote efficiency among such programs, and shall seek to coordinate, to the maximum extent feasible, such programs with programs significantly affecting handicapped individuals carried out by or under the Department of Education.

(Pub. L. 96-88, title V, § 510, Oct. 17, 1979, 93 Stat. 695.)

§ 3510. Transitional provisions

With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary or the Department, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this chapter.

(Pub. L. 96-88, title V, § 511, Oct. 17, 1979, 93 Stat. 695.)